

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**  
**ADMINISTRATIVE RULES REVIEW**

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*2008 Legislative Session*

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# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.01 - RULES GOVERNING ELECTRICAL INSPECTION TAGS**

**DOCKET NO. 07-0101-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1005 and 54-1006, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 121 through 124.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax



## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Electrical Inspection Tags**

**Docket No. 07-0101-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1005 and 54-1006, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The requirements for Electrical Inspection Tags need to be changed to facilitate the use of a new software system which will allow customers to purchase permits via the Internet. The current references to multi-part forms are obsolete. All references to the Electrical Bureau need to be changed to reflect the Division of Building Safety and its current address. Also, options other than mail must be allowed for specified deliveries. The proposed rules change the requirements to allow for copies of forms to be used in lieu of specified pages of multi-part forms, delivery of permit copies through alternative means, and the transacting of business via the Internet.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes in the rule simply serve to facilitate the implementation of a new software system at DBS making the current system of processing electrical permit forms obsolete. The amendments will reduce the paperwork required of applicants for permits and increase the efficiency of DBS' delivery of customer services.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written

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## **DIVISION OF BUILDING SAFETY Rules Governing Electrical Inspection Tags**

**Docket No. 07-0101-0701  
PENDING RULE**

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comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **011. ELECTRICAL INSPECTION TAGS.**

Electrical Inspection tags as authorized by Section 54-1005, Idaho Code, shall ~~be printed and made available by the Electrical Bureau. Each tag shall~~ bear a Serial Number ~~and shall be in five parts, to be designated No. 1, No. 2, No. 3, No. 4, and No. 5, for all electrical contractor inspection tags or shall be in four parts, to be designated No. 1, No. 2, No. 3, and No. 4, for all property owner inspection tags.~~ (1-14-87)(\_\_\_\_)

#### **012. ELECTRICAL CONTRACTORS' INSPECTION TAGS.**

Electrical contractors' inspection tags shall be furnished by the ~~Electrical Bureau~~ Division of Building Safety to licensed electrical contractors upon request. The serial numbers of such tags shall be registered in the name of the electrical contractor to whom they are issued and they shall not be transferable. Electrical inspection tags issued to an electrical contractor shall be used only for electrical installations made by said electrical contractor and for which said electrical contractor assumes full responsibility. (7-1-97)(\_\_\_\_)

**01. Completion of Electrical Inspection Tag.** For each electrical installation made by an electrical contractor and coming under the provisions of Section 54-1001, Idaho Code, said contractor or his authorized representative shall complete an electrical inspection tag application, issued by the ~~Electrical Bureau~~ Division of Building Safety, giving all pertinent information. The name of the electrical contractor shall be stated and the tag shall be signed by the electrical contractor or his authorized agent. ~~All five copies shall be legible.~~ (7-1-97)(\_\_\_\_)

**02. Posting of Electrical Inspection Tag.** Before work is commenced, the electrical contractor or his authorized representative shall place ~~part No. 5~~ a copy of the electrical inspection tag at the location of the service switch and mail or deliver ~~part No. 4~~ a copy to the power supplier. ~~Parts No. 1 & No. 2~~ An application, together with the proper inspection fee as herein provided, shall be received by the ~~Electrical Bureau~~ Division of Building Safety within seven (7) calendar days from the time the electrical work is started. Where the total cost of installation is unknown, the minimum inspection fee as listed in IDAPA 07.01.02, "Rules Governing Fees For Electrical Inspections," Subsection 011.06 of the fee schedule shall accompany the tag and arrangements shall be made, in writing, with the ~~Electrical Bureau~~ Division of Building Safety or its authorized agent for payment of the balance of the fee. In all cases, payment of the total inspection fee shall be made prior to completion of the installation. (4-5-00)(\_\_\_\_)

**a.** The ~~Electrical Bureau~~ Division of Building Safety may refuse to extend credit to

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any electrical contractor for late payment or non-payment of any electrical inspection fees when due. In such instance, the contractor shall return all unused permits to the ~~Electrical Bureau~~ Division of Building Safety forthwith. No further permits will be issued to the contractor unless prepaid in cash or cash equivalent. Such contractor will not be allowed to purchase further permits unless and until all such unused permits have been returned to the ~~Electrical Bureau~~ Division of Building Safety, ~~Boise Office~~ Meridian, and all outstanding fees due have been paid in full.

(7-1-97)( )

**b.** Failure to post ~~Part 5~~ a copy of the electrical inspection tag at the required location, or failure to submit ~~parts No. 1 and No. 2~~ an application of such tag and the proper inspection fee to the ~~Electrical Bureau~~ Division of Building Safety within seven (7) calendar days from the time the electrical installation work is commenced will result in the imposition of a double inspection fee.

(7-1-97)( )

**c.** No electrical inspections shall be provided without the Division of Building Safety receiving an application for a tag along with the proper fee. ( )

### **013. ELECTRICAL LICENSING EXEMPTION FOR ~~REAL PROPERTY~~ HOME OWNERS AND MAINTENANCE ELECTRICIANS; INSPECTION TAG REQUIREMENTS.**

The licensing provisions of Title 54, Chapter 10, Idaho Code, and IDAPA 07.01.03, "Rules Governing Electrical Licensing," do not apply to the following pursuant to Section 54-1016, Idaho Code:

(7-1-98)

**01. ~~Personal Property~~ Home Owner Installations.** ~~Persons~~ Home owners making ~~electrical~~ installations on their own ~~property~~ primary residence, secondary residence, and buildings associated with these residences that are not used for commercial purposes.

(7-1-98)( )

**02. Maintenance Electricians.** Maintenance electricians employed full-time only to service, maintain, assemble, or repair EXISTING electrical installations located on their employers' premises.

(2-23-94)

**03. Procedures for Inspection Tags for Exempt ~~Property~~ Home Owners.** Persons exempt from licensing pursuant to Subsection 013.01 of this rule must still secure all electrical inspection tags required by Section 54-1005, Idaho Code, before making any electrical installation. No electrical wiring or equipment may be concealed in any manner from access or sight until the work has been inspected and approved for cover by the electrical inspector. A final inspection shall be made upon the completion of all electrical work. The procedure for obtaining inspection tags follows:

(7-1-98)( )

**a.** Any exempt person shall obtain an application form from the ~~Electrical Bureau~~ Division of Building Safety, either at its ~~Boise, Idaho,~~ Meridian main office or at a designated locations ~~in each county~~. The application form shall be properly completed, signed, and ~~mailed~~ forwarded to the ~~Electrical Bureau, P.O. Box 83720, Boise, Idaho 83720-0028~~ Division of Building Safety, 1090 E. Watertower Street, Meridian, Idaho 83642, with the proper inspection fee as provided for in these rules.

(7-1-98)( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules Governing Electrical Inspection Tags**

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PENDING RULE**

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b. Upon receipt of the properly completed application together with the proper inspection fee, the ~~Electrical Bureau~~ Division of Building Safety shall immediately issue an electrical inspection tag for the electrical installation designated in the application.

(2-23-94)( )

c. ~~Parts No. 1 and 4~~ A copy of ~~the~~ an electrical inspection tag shall be retained by the ~~Electrical Bureau~~ Division of Building Safety. ~~Part No. 2~~ A copy of an electrical inspection tag shall be ~~mailed~~ forwarded to the applicant and shall be placed on the location of the service, and ~~Part No. 4~~ a copy of an electrical inspection tag shall be forwarded to the state electrical inspector who will make the electrical inspection as provided by Sections 54-1004 and 54-1005, Idaho Code.

(2-23-94)( )

d. ~~Part No. 3~~ A copy of an electrical inspection tag shall be ~~mailed~~ forwarded or delivered to the power supplier by the Division of Building Safety.

(2-23-94)( )

### **014. ELECTRICAL INSPECTION TAG REQUIREMENTS FOR INDUSTRIAL ACCOUNTS.**

~~Property owners, c~~ Companies, firms, associations, or corporations who use employees to make electrical installations coming under the provisions of Section 54-1001, Idaho Code, on their own premises, must establish an Industrial Account with the ~~Electrical Bureau~~ Division of Building Safety and secure electrical inspection tags by making application to the ~~Electrical Bureau~~ Division of Building Safety. Employees performing non-maintenance electrical installations on an Industrial Account must be licensed electrical journeymen as provided by Section 54-1002(2). One (1) properly licensed employee shall be designated the supervising journeyman for the Industrial Account with the ~~Electrical Bureau~~ Division of Building Safety.

(7-1-98)( )

01. **Application Forms.** The application form shall be properly completed, signed by the property owner or agent of the company, firm, association, or corporation, and ~~mailed~~ forwarded to the ~~Electrical Bureau, P.O. Box 83720, Boise, Idaho, 83720-0028~~ Division of Building Safety, 1090 E. Watertower Street, Meridian, Idaho 83642, with the proper inspection fee as hereinafter provided.

(7-1-98)( )

02. **Posting of Electrical Inspection Tag.** Upon receipt of a properly completed application from a property owner, company, firm, association, or corporation for an electrical inspection tag, together with the proper inspection fee, the ~~Electrical Bureau~~ Division of Building Safety shall immediately issue an electrical inspection tag for the electrical installations designated in the application. ~~Parts No. 1 and No. 4~~ A copy of an electrical inspection tag shall be retained by the ~~Electrical Bureau~~ Division of Building Safety. ~~Part No. 2 of the 4-part~~ A copy of an electrical inspection tag shall be ~~mailed~~ forwarded to the applicant and shall be placed at the location of the service switch. ~~Part No. 3~~ A copy of an electrical inspection tag shall be ~~mailed~~ forwarded or delivered to the power supplier, and ~~Part No. 4~~ a copy shall be forwarded to the State Electrical Inspector who will make the electrical inspection as provided by Sections 54-1004 and 54-1005, Idaho Code.

(1-14-87)( )

03. **Power Supply Company.** In the event the power supplier deems it necessary to energize an electrical installation without delay to preserve life or property, the power supply company may accept the application properly completed and signed, with the proper inspection fee attached, in lieu of the electrical inspection tag required by Section 54-1004, Idaho Code,

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### **DIVISION OF BUILDING SAFETY Rules Governing Electrical Inspection Tags**

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provided the power supply company or its authorized agent shall assume the responsibility of ~~mailing~~ forwarding the application and inspection fee to the ~~Electrical Bureau, P.O. Box 83720, Boise, Idaho, 83720-0028~~ Division of Building Safety, 1090 E. Watertower Street, Meridian, Idaho 83642. The ~~Electrical Bureau~~ Division of Building Safety shall, upon request, furnish application forms and self-addressed, ~~postage-paid~~ envelopes to power supply companies operating within the state of Idaho. (7-1-98)(\_\_\_\_)

#### **015. TEMPORARIES.**

Temporaries for construction may be energized by power suppliers upon receipt of a ~~contractor's~~ copy of an inspection tag, ~~an owner application as provided in Subsection 07.01.01.013.03, or a Temporary For Construction label~~ purchased from the ~~Electrical Bureau by a building contractor~~ Division of Building Safety. (2-23-94)(\_\_\_\_)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL**

**DOCKET NO. 07-0103-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 129 through 132.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules of Electrical Licensing and Registration - General**

**Docket No. 07-0103-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Division of Building Safety and the electrical industry recognized a need to raise the minimum qualification level of qualifiers for electrical contracting licenses. This proposed rule is the result of extensive negotiations and hearings conducted over the past year as part of a negotiated rulemaking. The proposed rule changes require that the owner or qualified employee of an applicant for an electrical contractor license be licensed as a master electrician. Previously, only a journeyman electrician license was required. The proposed changes are effective July 1, 2008 and provide an exemption for existing contractors until a new supervising electrician is designated.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, page 85.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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## **DIVISION OF BUILDING SAFETY Rules of Electrical Licensing and Registration - General**

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**Docket No. 07-0103-0701  
PENDING RULE**

DATED this 28th day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **015. ELECTRICAL CONTRACTOR.**

##### **01. Qualifications for Electrical Contractor. (4-7-91)**

**a.** On and after July 1, 2008, Except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the condition that such following requirements: ( )

**i.** Applicant shall have at least one (1) full-time employee who holds a valid master electrician license ~~or journeyman electrician license~~ issued by the Electrical Bureau, ~~and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was actively employed as a journeyman electrician for a minimum of four thousand (4,000) hours.~~ Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A master electrician license will be required for a new supervising electrician designated after July 1, 2008. ( )

**ii.** The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. ( )

**iii.** An individual electrical contractor may act as his own supervising ~~journeyman master~~ electrician upon the condition that he holds a valid master electrician license ~~or journeyman electrician license issued by the Electrical Bureau, and has held a valid journeyman electrician's license for a period of not less than two (2) years, during which time he was actively employed as a journeyman electrician for a minimum of four thousand (4,000) hours.~~ The supervising journeyman electrician shall be available during working hours to carry out the duties of supervising journeymen, as set forth herein. (4-5-00)( )

**iv.** Applicant must pass a contractor examination administered by the Bureau or its designee. Any applicant which purports to be a non-individual (i.e., corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. ( )

**v.** Applicant shall provide proof of liability insurance to the Bureau in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DIVISION OF BUILDING SAFETY Rules of Electrical Licensing and Registration - General

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PENDING RULE

contractor licensing period. ( )

vi. Applicant shall provide to the Bureau proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. Bureau will provide written confirmation of exemption status. ( )

b. ~~Those duties include assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Bureau; and a~~Any person designated under Subsection 015.01.a., and the contractor he represents, shall each notify the Bureau in writing if the supervising ~~journeyman~~ master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising ~~journeyman~~ master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising ~~journeyman~~ master is qualified by the Bureau.

(7-27-94)( )

**02. Required Signatures on Application.** An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising ~~journeyman~~ master electrician. (4-1-91)( )

**03. Electrical Contracting Work Defined.** An electrical contractor license issued by the Division of Building Safety must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. (4-5-00)

a. Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. (4-5-00)

b. Any person or entity providing or offering to provide electrical contracting services, including, but not limited to, submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. (4-5-00)

c. Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. (4-5-00)

**04. Previous Revocation.** Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

**05. Reviving an Expired License.** Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules of Electrical Licensing and Registration - General**

**Docket No. 07-0103-0701  
PENDING RULE**

license prior to expiration, he violates any of the laws and/or rules applicable to electrical contractors. (4-1-91)

#### **06. Qualification and Duties for Supervising Journeyman or Master. ( )**

**a.** A ~~journeyman~~ master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising ~~journeyman~~ master, nor shall said application be approved if he does countersign said application as the supervising ~~journeyman~~ master, if said ~~journeyman~~ master has had his Idaho Electrical Contractor license revoked for cause under Section 54-1009, Idaho Code. ( )

**b.** A supervising ~~journeyman~~ master shall not countersign for more than one (1) contractor. ( )

**c.** A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Subsections 015.01.a. and 015.01.b. (7-1-97)

**d.** Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Bureau. ( )

**07. Failure to Correct Defects in Electrical Installations.** If a ~~journeyman~~ master countersigns an electrical contractor license application pursuant to Subsection 015.03 and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Electrical Bureau shall have the power to suspend or revoke said ~~journeyman~~ master's license pursuant to Section 54-1009, Idaho Code. (~~1-14-87~~)( )

**08. Overcharging of Fees.** It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division of Building Safety, Electrical Bureau, and the fee remitted by the contractor to the Bureau is less than the fee actually charged and collected by him. (4-6-83)

#### **09. ~~Electrical~~ Termination of Supervising Master or Contractor's Examination Designee. (~~9-1-94~~)( )**

**a.** ~~Each electrical contractor's license applicant must pass a contractor's examination to be administered by the Bureau or its designee. Any applicant which purports to be a non-individual (i.e., corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other~~

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules of Electrical Licensing and Registration - General**

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PENDING RULE**

~~applicant for an electrical contractor's license. Any person designated under Subsection 015.09.a., and the contractor he represents, shall each notify the Bureau in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the Bureau.~~

~~(9-1-94)( )~~

**b.** Any person designated under Subsection 015.09.a., and the contractor he represents, shall each notify the Bureau in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor.

(9-1-94)

~~**e.** Passage of the contractor's examination shall only be required for new electrical contractor license applications submitted after the effective date of this rule, September 1, 1994, and shall not apply to license renewal or revival under Section 54-1013, Idaho Code.~~

~~(9-1-94)~~

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.01.04 - RULES GOVERNING ELECTRICAL SPECIALTY LICENSING**

**DOCKET NO. 07-0104-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 133 and 134.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Electrical Specialty Licensing**

**Docket No. 07-0104-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Division of Building Safety and the electrical industry recognized that the heightened rules for electrical contractors (requiring a master electrician license), should not apply to specialty contractor licenses. This proposed rule is the result of extensive negotiations and hearings conducted over the past year as part of a negotiated rulemaking. The proposed rule changes clarify that the owner or qualified employee of an applicant for an electrical specialty contractor license need not be licensed as a master electrician. Only a supervising specialty journeyman license is required.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, page 85.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 16th day of August, 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Electrical Specialty Licensing**

**Docket No. 07-0104-0701**  
**PENDING RULE**

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### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **017. SPECIALTY CONTRACTOR LICENSE.**

**01. Qualifications for Specialty Electrical Contractor.** Except as herein provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for a specialty electrical contractor license upon the condition that such applicant will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. The supervising specialty journeyman electrician shall be available during working hours to carry out the duties of supervising specialty journeyman, as set forth herein. In addition, the applicant shall meet or have at least one (1) full-time employee who meets one (1) of the following criteria: (3-30-01)

**a.** Holds a valid specialty journeyman electrician license issued by the Electrical Bureau, in the same category as the specialty contractor, and has held a valid specialty journeyman electrician's license for a period of not less than two (2) years, during which time he was employed as a specialty journeyman electrician for a minimum of four thousand (4,000) hours; (3-30-01)

**b.** Holds a valid specialty journeyman electrician license issued by the Electrical Bureau, in the same category as the specialty contractor, and has at least four (4) years of experience in the specialty electrical category with a minimum of two (2) years practical experience in planning, laying out, and supervising electrical installations in this specialty category. (3-30-01)

**02. Modification to Qualifications.** Applicants for specialty contractor licenses, or individuals countersigning such applications, shall be subject to the same requirements, restrictions, and fees applicable to other electrical contractors and countersigning *journeyman master*, as set forth in the current Electrical Laws and Rules with the exception that an electrical contractor requires a master electrician to countersign as a supervising master whereas a supervising specialty journeyman for a specialty electrical contractor must meet the requirements of Subsection 017.01. (~~3-30-01~~)( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL CODE**

**DOCKET NO. 07-0106-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2008, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1001, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 135 through 137.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Use of National Electrical Code**

**Docket No. 07-0106-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1001, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The Electrical Board adopts the latest versions of the National Electrical Code as they become available. Such timely adoption assures the best protection for Idaho citizens. The proposed rule changes adopt the 2008 National Electrical Code, with amendments reflecting the best judgment of the Board.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of time limitations and the need to implement some significant safety measures as soon as possible. DBS and Electrical Board members have discussed this issue at length with representatives of the Building Contractor Association, local jurisdictions, electrical contractors, electricians, and specialty contractors affected by the implementation of the new code. DBS and the Electrical Board feel that the rule being proposed is a consensus document and reflects a middle of the road approach enhancing safety without adding significant cost to consumers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.



# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DIVISION OF BUILDING SAFETY**  
**Use of National Electrical Code**

**Docket No. 07-0106-0701**  
**PENDING RULE**

DATED this 28th day of August, 2007.

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE, 2005~~8~~ EDITION.**

**01. ~~The National Electrical Code, 2005 Edition Documents.~~** Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2005~~8~~ Edition, (herein NEC) is hereby adopted and incorporated by reference for the state of Idaho and shall be in full force and effect on and after July 1, 2005~~8~~, with the exception of the following: ~~(4-11-06)~~(    )

**a.** Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. (5-3-03)

**b.** Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (5-3-03)

~~**c.** Compliance with Article 210.12(B) shall not apply to the fire/smoke alarm branch circuit outlet.~~ (5-3-03)

~~**d.**~~ Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device(s) (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-away fuse holder(s) accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. (4-6-05)

**d.** Compliance with Article 210.12 Arc-Fault Circuit-Interrupter Protection. (    )

**i.** Definition. Arc-Fault Circuit-Interrupter is a device intended to provide protection from the effects of arc faults by recognizing characteristics unique to arcing and by functioning to de-energize the circuit when an arc fault is detected. (    )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### ***DIVISION OF BUILDING SAFETY Use of National Electrical Code***

***Docket No. 07-0106-0701  
PENDING RULE***

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ii. Dwelling Unit Bedrooms. All one hundred twenty-volt (120), single phase, fifteen- and twenty-ampere (15 and 20) branch circuits supplying outlets installed in dwelling unit bedrooms shall be protected by a listed arc-fault circuit interrupter, combination type installed to provide protection of the branch circuit. ( )

e. Compliance with Article 680.26 Bonding. ( )

i. Performance. The bonding required by this section shall be installed to eliminate voltage gradients in the pool area as prescribed. FPN: This section does not require that the eight (8) AWG or larger solid copper bonding conductor be extended or attached to any remote panelboard, service equipment, or any electrode. ( )

ii. Bonded Parts. The parts specified in 680.26(B)(1) through (B)(5) shall be bonded together. ( )

(1) Metallic Structural Components. All metallic parts of the pool structure, including the reinforcing metal of the pool shell, coping stones, and deck, shall be bonded. The usual steel tie wires shall be considered suitable for bonding the reinforcing steel together, and welding or special clamping shall not be required. These tie wires shall be made tight. If reinforcing steel is effectively insulated by an encapsulating nonconductive compound at the time of manufacture and installation, it shall not be required to be bonded. Where reinforcing steel is encapsulated with a nonconductive compound, provisions shall be made for an alternate means to eliminate voltage gradients that would otherwise be provided by unencapsulated, bonded reinforcing steel. ( )

(2) Underwater Lighting. All forming shells and mounting brackets of no-niche luminaries (fixtures) shall be bonded unless a listed low-voltage lighting system with nonmetallic forming shells not requiring bonding is used. ( )

(3) Metal Fittings. All metal fittings within or attached to the pool structure shall be bonded. Isolated parts that are not over one hundred (100) mm (four (4) inches) in any dimension and do not penetrate into the pool structure more than twenty-five (25) mm (one (1) inch) shall not require bonding. ( )

(4) Electrical Equipment. Metal parts of electrical equipment associated with the pool water circulating system, including pump motors and metal parts of equipment associated with pool covers, including electric motors, shall be bonded. Metal parts of listed equipment incorporating an approved system of double insulation and providing a means for grounding internal nonaccessible, non-current-carrying metal parts shall not be bonded. Where a double-insulated water-pump motor is installed under the provisions of this rule, a solid eight (8) AWG copper conductor that is of sufficient length to make a bonding connection to a replacement motor shall be extended from the bonding grid to an accessible point in the motor vicinity. Where there is no connection between the swimming pool bonding grid and the equipment grounding system for the premises, this bonding conductor shall be connected to the equipment grounding conductor of the motor circuit. ( )

(5) Metal Wiring Methods and Equipment. Metal-sheathed cables and raceways, metal piping, and all fixed metal parts except those separated from the pool by a permanent barrier shall be bonded that are within the following distances of the pool: ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Use of National Electrical Code**

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**Docket No. 07-0106-0701  
PENDING RULE**

(a) Within one and five tenths (1.5) meters (five (5) feet) horizontally of the inside walls of the pool. ( )

(b) Within three and seven tenths (3.7) meters (twelve (12) feet) measured vertically above the maximum water level of the pool, or any observation stands, towers, or platforms, or any diving structures. ( )

iii. Common Bonding Grid. The parts specified in 680.26B shall be connected to a common bonding grid with a solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. Connection shall be made by exothermic welding or by pressure connectors or clamps that are labeled as being suitable for the purpose and are of stainless steel, brass, copper, or copper alloy. The common bonding grid shall be permitted to be any of the following: ( )

(1) The structural reinforcing steel of a concrete pool where the reinforcing rods are bonded together by the usual steel tie wires or the equivalent. ( )

(2) The wall of a bolted or welded metal pool. ( )

(3) A solid copper conductor, insulated, covered, or bare, not smaller than eight (8) AWG. ( )

(4) Rigid metal conduit or intermediate metal conduit of brass or other identified corrosion-resistant metal conduit. ( )

iv. Connections. Where structural reinforcing steel or the walls of bolted or welded metal pool structures are used as a common bonding grid for nonelectrical parts, the connections shall be made in accordance with 250.8. ( )

v. Pool Water Heaters. For pool water heaters rated at more than fifty (50) amperes that have specific instructions regarding bonding and grounding, only those parts designated to be bonded shall be bonded, and only those parts designated to be grounded shall be grounded. ( )

**02. ~~The National Electrical Code, 2005 Edition, Availability.~~** This document is available at the office of the Division of Building Safety ~~offices located~~ at 1090 E. Watertower St., Meridian, Idaho 83642 ~~and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814.~~

(4-11-06)( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07- DIVISION OF BUILDING SAFETY**

### **07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS**

**DOCKET NO. 07-0107-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 138 through 141.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Continuing Education Requirements**

**Docket No. 07-0107-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1006(5), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Continuing education is required of electricians for renewal of their licenses. The current policy for approval of sponsors, courses, and instructors has been reviewed and approved by the Idaho State Electrical Board, but those requirements are not defined by administrative rule. This proposal would place those requirements in administrative rule. The proposed rule changes define the requirements for electrical continuing education sponsors, courses, and instructors.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Board has become aware of problems in some of the current programs and recognized a need to clarify and move current administrative policy into rule to facilitate corrective action by the administrator.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DIVISION OF BUILDING SAFETY**  
**Rules Governing Continuing Education Requirements**

**Docket No. 07-0107-0701**  
**PENDING RULE**

### *THE FOLLOWING IS THE TEXT OF THE PENDING RULE*

#### **012. COURSE APPROVAL REQUIREMENTS.**

Continuing education courses for electricians must cover technical aspects of the electrical trade. Courses related to management, supervision, business practices, personal computer skills, or first aid will not be approved. Courses will be approved as either code update or industry related based on the criteria as defined in this section. ( )

##### **01. General Course Requirements.** ( )

**a.** Courses must be at least four (4) hours in length. ( )

**b.** Courses must be taught by an instructor approved by the Electrical Bureau. ( )

**c.** The presentation should be delivered orally with the assistance of power point or other means of visual media. Pre-taped video or audio shall be held to a minimum. ( )

**d.** A course evaluation card shall be provided to all participants to evaluate course and presentation. The completed evaluation cards must be submitted to the Electrical Bureau. ( )

**e.** All programs are subject to audit by representatives of the Division of Building Safety or Idaho State Electrical Board for content and quality without notice and at no charge. Course and instructor approval are subject to revocation if the minimum requirements of course content or instructor qualifications are not met. ( )

**f.** Credit will not be given to a licensee who attended a course prior to that course being approved by the Division of Building Safety. ( )

**02. Code Update Programs.** Code update programs must cover changes to the National Electrical Code utilizing pre-approved materials such as the NFPA-IAEI Analysis of Changes. ( )

**03. Industry Related Programs.** Industry related programs shall be technical in nature and directly related to the electrical industry. Electrical theory, application of the National Electrical Code, grounding, photovoltaic systems, programmable controllers, and residential wiring methods are examples of industry related programs. ( )

##### **04. Program Approval Procedures.** ( )

**a.** Program approvals shall be effective for one (1) code cycle. Subsequent applications for the same program may incorporate by reference all or part of the original application. ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules Governing Continuing Education Requirements**

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**b.** An application for course approval may be obtained from the Electrical Bureau, 1090 E. Watertower, Meridian, Idaho 83642, or from the Division of Building Safety's website at <http://dbs.idaho.gov>. The application shall include: ( )

- i.** The title and general description of the program; ( )
- ii.** The name of the sponsor as it will appear on the completion certificate; ( )
- iii.** The address and contact person for the sponsor; ( )
- iv.** The names of the instructors and dates of approval by the Division of Building Safety or completed applications for the instructors; ( )

**v.** The hours of instruction to be presented – correspondence or on-line computer based courses must provide a minimum of twenty (20) questions to be answered by the student for each hour of credit requested for approval. For example four (4) hours of credit would require eighty (80) questions, eight (8) hours of credit would require one hundred and sixty (160) questions; ( )

- vi.** An outline of the program; ( )
- vii.** The cost of the program to the participant; ( )
- viii.** A schedule of classes, including locations, dates, and times; ( )
- ix.** A list or sample of materials to be used in the program; ( )
- x.** A copy of the quiz to be given to the participants, if applicable; ( )
- xi.** A copy or sample of the completion certificate; and ( )
- xii.** A copy of the evaluation card. ( )

**c.** Certificates of Completion. Certificates of completion must contain the following: ( )

- i.** The date of the program; ( )
- ii.** The title of the program; ( )
- iii.** The location of the program; ( )
- iv.** The name of the sponsor; ( )
- v.** The number of hours of credit completed; ( )
- vi.** The name of the attendee; ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules Governing Continuing Education Requirements**

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vii. The license number of the attendee; ( )

viii. The name of the instructor; and ( )

ix. The Idaho course approval number. ( )

**d.** Evaluation Cards. Evaluation cards or forms must be pre-addressed to the Division of Building Safety and must include the following: ( )

i. The date of the program; ( )

ii. The title of the program; ( )

iii. The location of the program; ( )

iv. The instructor's name; ( )

v. An evaluation of the course (e.g., poor, fair, good, very good, excellent); and ( )

vi. An evaluation of the instructor's presentation skills. ( )

**05. Appeals.** Appeals for courses that have been denied approval shall be submitted in writing and shall be presented to the Idaho State Electrical Board within thirty (30) days for review. Decision by the Board on the appeal shall be final. Any further appeal shall be to the district court as provided by the Idaho Administrative Procedures Act as an appeal from a final agency action in a contested case proceeding. ( )

**06. Instructor Approval Procedures.** ( )

**a.** Instructor approvals shall be effective for one (1) code cycle. ( )

**b.** An application for instructor approval may be obtained from the Electrical Bureau, 1090 E. Watertower, Meridian, Idaho 83642, or from the Division of Building Safety's website at <http://dbs.idaho.gov>. Documentation of the instructor qualifications must be included with the instructor application. The minimum qualification for an instructor shall be established by providing proof of one (1) of the following: ( )

i. Current and active Master or Journeyman Electrician license; ( )

ii. An appropriate degree related to the electrical field; or ( )

iii. Other recognized experience or certification in the subject matter to be presented. ( )

**c.** Any person denied instructor approval may appeal to the Idaho State Electrical Board within thirty (30) days. Decision by the Board on the appeal shall be final. Any further appeal shall be to the district court as provided by the Idaho Administrative Procedures Act as an



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### ***DIVISION OF BUILDING SAFETY Rules Governing Continuing Education Requirements***

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appeal from a final agency action in a contested case proceeding. ( )

**07. Revocation of Approval.** ( )

**a.** The Idaho State Electrical Board may revoke, suspend, or cancel the approval of any continuing education program or instructor if the Board determines that the program or instruction does not meet the intent of furthering the education of electricians. Grounds for revocation of approval shall include, but not be limited to: ( )

**i.** Failure of the instructor to substantially follow the approved course materials; ( )

**ii.** Failure to deliver instruction for the full amount of time approved for the course;  
or ( )

**iii.** Substantial dissatisfaction with the instructor's presentation or the content of the course or materials by the class attendees or representatives of the Division of Building Safety or Idaho State Electrical Board. ( )

**b.** Decision by the Board on the appeal shall be final. Any further appeal shall be to the district court as provided by Title 67, Chapter 52, the Idaho Administrative Procedure Act, as an appeal from a final agency action in a contested case proceeding. ( )

**08. Requirements for Credit.** In order for a licensee to receive credit for attending a class, the following requirements must be met: ( )

**a.** The class must have prior approval by the Electrical Bureau or a state that is reciprocal with Idaho for continuing education; ( )

**b.** The instructors must be approved instructors for the program; ( )

**c.** The licensee must submit a copy of the certificate of completion to the Electrical Bureau; and ( )

**d.** The course provider must provide a roster of attendees to include the name, license number, and the number of hours to be credited. ( )

**09. Schedule of Approved Classes.** The Electrical Bureau shall publish a list of approved classes at a minimum of once a year. This list shall be forwarded to all states that are members of the continuing education reciprocal agreement and shall be made available to any licensee via the Division of Building Safety's website or by mail. ( )

**0123. -- 999. (RESERVED).**

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING**

**DOCKET NO. 07-0205-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 146 through 148.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone / (208) 855-2164 fax

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Plumbing Safety Licensing**

**Docket No. 07-0205-0701**  
**PENDING RULE**

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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007. The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The proposed change is needed to clarify and specify the permitted scope of work for appliance plumbing specialty licensing.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed rule is the result of long-term discussions relative to the problems with water treatment installers. The plumbing industry is largely supportive of this proposal and many water treatment companies have also expressed support.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **018. APPLIANCE PLUMBING SPECIALTY LICENSE.**

The purpose of this section is to set out the special types of plumbing installations for which an

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DIVISION OF BUILDING SAFETY Rules Governing Plumbing Safety Licensing**

**Docket No. 07-0205-0701  
PENDING RULE**

appliance plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. (7-1-99)

**01. Qualified Journeyman Plumbers.** Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

**02. Qualified Apprentice Plumbers.** Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, shall be permitted to make installations as subsequently described herein without securing an additional license for said installation. (7-1-99)

**03. Minimum Experience Requirements.** (7-1-99)

**a.** Experience gained by an individual while engaged in the practice of appliance plumbing specialty shall not be considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. (7-1-99)

**b.** All qualified appliance plumbing specialty journeymen shall be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. (7-1-99)

**c.** Appliance plumbing specialty contractors must have a two thousand dollars (\$2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of appliance plumbing specialty contractor's test. (7-1-99)

**d.** Appliance plumbing specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of seventy-two (72) hours of approved, related training classes and successful completion of the appliance plumbing specialty journeyman's test. (7-1-99)

**e.** Appliance plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed approved related training classes and maintain state registration. (7-1-99)

**04. Special Grandfathering Provision.** (7-1-99)

**a.** Contractor: In lieu of the thirty (30) months minimum journeyman experience requirement, an individual may use five (5) years experience of owning and operating a business where this specialty applies AND satisfactory completion of seventy-two (72) hours of approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least five (5) years. (7-1-99)

**b.** Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use five (5) years experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least five (5) years. (7-1-99)

**05. Applications for Specialty Licenses.** Applications for the above specialty

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### **DIVISION OF BUILDING SAFETY Rules Governing Plumbing Safety Licensing**

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licenses may be obtained from the Plumbing Bureau, Division of Building Safety. The forms shall be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. (7-1-99)

**06. Examinations for Specialty Licenses.** Written examinations for specialty plumbing licenses shall be formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. (7-1-99)

**07. Fees.** Fees for certificates shall be required in accordance with Section 54-2616, Idaho Code. (7-1-99)

**08. Scope of Work Permitted.** A person holding a valid appliance plumbing specialty license is ~~P~~permitted to disconnect, cap, remove, and reinstall, within sixty (60) inches of original location, the following: ( )

**a.** ~~Water heating appliance, water treating or filtering devices~~ conditioning equipment, which includes, but is not limited to: ( )

i. Water softeners; ( )

ii. Conditioners; ( )

iii. Whole house filtration systems; ( )

iv. Iron filters; ( )

v. Chlorine filters; ( )

vi. Fluoride filters; ( )

vii. Sediment filters (self-cleaning and canister type); ( )

viii. Reverse Osmosis filtration; ( )

ix. Other under counter water filtration systems; and ( )

x. Air ~~or~~ and space temperature modifying equipment which involves potable water; or humidifiers; ~~temperature and pressure relief valves; condensate drains and indirect drains~~ in one (1) and two (2) family residences only. ( )

**b.** Work authorized under the license ~~D~~does not include installation, testing, or certifying of backflow prevention devices. ~~Does NOT include or~~ any modification to the drain, waste, ~~or~~ and vent systems. Work done under the license ~~M~~must comply with all Idaho State Plumbing laws and rules and ~~the requirements of~~ the Uniform Plumbing Code. (7-1-99)( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE**

**DOCKET NO. 07-0206-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Text has been added to IDAPA 07.02.06.011.22.c. and the paragraph reads as follows:

**Subsection 011.22.c.**

c. Sidewall venting must meet the intent of Section 906.2 of the UPC. ( )

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 29 through 32.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 5th day of September, 2007.

Stephen L. Keys  
Division of Building Safety  
1090 E. Watertower St., Meridian

Deputy Administrator - Operations  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone / (208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Concerning Uniform Plumbing Code**

**Docket No. 07-0206-0701**  
**PENDING RULE**

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### ***THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2605, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The proposed rule change is needed to authorize the plumbing industry to utilize improvements and advanced techniques in plumbing installations. The changes specify when and under what circumstances sidewall venting and air admittance valves may be used in plumbing systems.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

**No fees or charges are being imposed or increased.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

**This rulemaking will not result in any negative fiscal impact on the state general fund.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of opposition from the industry.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2007.

DATED this 29th day of June, 2007.

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DIVISION OF BUILDING SAFETY Rules Concerning Uniform Plumbing Code**

**Docket No. 07-0206-0701  
PENDING RULE**

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#### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **011. ADOPTION AND INCORPORATION BY REFERENCE OF THE 2003 UNIFORM PLUMBING CODE.**

The 2003 Uniform Plumbing Code, including Appendices “A, B, D, E, G, H, I, J, and L,” (herein U.P.C.) is adopted and incorporated by reference with the following amendments. The 2003 Uniform Plumbing Code is available at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814. (4-6-05)

**01. Section 218.** Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-15-02)

**02. Section 316.1.6.** PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (4-6-05)

**03. Section 420.0.** Pressure balance or thermostatic mixing valves are not required for high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached. (3-15-02)

**04. Section 421.0.** Delete. (4-6-05)

**05. Section 604.1. Materials.** Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. (4-6-05)

**06. Section 609.4.** Testing. Deleting the phrase “Except for plastic piping,” at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer’s installation standards. (4-6-05)

**07. Section 609.10.** Water hammer. Does not apply to residential construction. (7-1-98)

**08. Table 6-4 and Table A-2.** Change fixture unit loading value for bathtub or combination bath/shower, and clotheswashers to two (2) fixture units. (3-15-02)

**09. Section 610.2.** All new one (1) and two (2) family residences must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. (3-30-07)

**10. Section 611.4.** Sizing of Residential Softeners. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer’s standards.



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### ***DIVISION OF BUILDING SAFETY Rules Concerning Uniform Plumbing Code***

***Docket No. 07-0206-0701  
PENDING RULE***

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(4-6-05)

**11. Table 7-3.** Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 717.0). Change fixture unit loading value for clotheswashers, domestic to two (2) fixture units. (3-15-02)

**12. Section 703.1 - Underground Drainage and Vent Piping.** No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-15-02)

**13. Section 703.2 and 710.5. Add Exception.** In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-15-02)

**14. Section 704.2.** Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (4-6-05)

**15. Section 704.3.** Delete. (5-3-03)

**16. Table 7-5.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

**17. Section 707.4 Cleanouts.** A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. (3-15-02)

**18. Section 712.1.** In the first sentence, delete the phrase "except that plastic pipe shall not be tested with air." (4-6-05)

**19. Section 801.2.3.** Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five point four (25.4) mm). (5-3-03)

**20. Section 801.4. Drains.** Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths inch (¾") minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths inch (¾"). (3-30-07)

**21. Section 807.4.** A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules Concerning Uniform Plumbing Code**

**Docket No. 07-0206-0701  
PENDING RULE**

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(3-15-02)

**22. Section 906.1.** Delete the existing provision and replace with the following: ( )

**a.** Roof venting. When conventional roof venting is utilized, each vent pipe or stack shall extend through its flashing and shall terminate vertically not less than six (6) inches (152 mm) above the roof nor less than one (1) foot (305 mm) from any vertical surface. ( )

**b.** Sidewall venting. When sidewall venting is utilized, the vent shall extend flush with the eaves/gable end, shall turn down using a ninety (90) degree ell, and shall terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings. ( )

**c.** Sidewall venting must meet the intent of Section 906.2 of the UPC. ( )

**223. Section 908. Exception - Vertical Wet Venting.** A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 are met. (7-1-98)

**24. Section 909.0.** Add: Parameters for the limited use of Air Admittance Valves (A.A.V.). ( )

**a.** An A.A.V. may be used only in residential buildings. ( )

**b.** In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. shall not be used in bathroom groups. ( )

**c.** In new construction, an A.A.V. may be used on island fixture sinks. ( )

**d.** Each A.A.V. may be used to vent only one (1) floor. ( )

**e.** Each A.A.V. must be readily accessible. ( )

**f.** The cross-sectional area of venting must remain the same and must meet the largest required building drain. ( )

**g.** An A.A.V. shall only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. ( )

**h.** An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. ( )

**235. Section 1002.3.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-15-02)

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.02.07 - RULES GOVERNING CIVIL PENALTIES**

**DOCKET NO. 07-0207-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 149 and 150.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone / (208) 855-2164 fax

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing Civil Penalties**

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**Docket No. 07-0207-0701**  
**PENDING RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2605, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The proposed change is needed to eliminate confusion and misunderstanding regarding whether a provision for civil penalties applies to licensed plumbing contractors. The proposed change adds language to the rule to clarify that a person holding a valid plumbing contractor license is not subject to certain civil penalties.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Board felt strongly that clarification was needed to better reflect the Board's intent when civil penalties are initially implemented.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **DIVISION OF BUILDING SAFETY Rules Governing Civil Penalties**

---

**Docket No. 07-0207-0701  
PENDING RULE**

#### **011. CIVIL PENALTIES.**

The following acts shall subject the violator to penalties based on the following schedule.

(3-24-05)

**01. Plumbing Contractor.** Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho state certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.

(3-24-05)

**02. Certification or Registration.** Except as provided by Section 54-2602, Idaho Code, any person performing plumbing as defined in Section 54-2603, Idaho Code without an appropriate certificate of competency or registration shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.

(3-24-05)

**03. Performance Outside Scope of Certificate.** Any specialty contractor or specialty journeyman performing plumbing installations, alterations or maintenance outside the scope of the specialty certificate of competency shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.

(3-24-05)

**04. Fees, Permits and Inspections.** Any person, other than a person who holds a valid Idaho state plumbing contractor's certificate of competency, failing to pay applicable fees, or properly post a plumbing permit, or to request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations and repairs shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand (\$1,000) for each offense thereafter. ~~(3-24-05)~~( )

**05. Corrections.** Any person, other than a person who holds a valid Idaho state plumbing contractor's certificate of competency, who fails to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter.

~~(3-24-05)~~( )

**06. Gross Violation.** In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code or IDAPA 07.02, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution.

(3-24-05)

**07. Judicial Review.** Any party aggrieved by the final action of the Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code.

(3-24-05)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.04.02 - SAFETY RULES FOR ELEVATORS, ESCALATORS, AND MOVING WALKS**

**DOCKET NO. 07-0402-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-8605 and 39-8614, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 158 and 159.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Safety Rules for Elevators, Escalators, and Moving Walks**

**Docket No. 07-0402-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-8605 and 39-8614, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The code references noted in Section 39-8614, Idaho Code, are not specific as to the current editions being enforced. The administrator of the Division of Building Safety is charged with promulgating rules to specify the particular editions being enforced. The proposed rule change adopts current editions of the applicable codes along with applicable amendments and updates as listed.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the specification of applicable code editions has been lacking since the implementation of the Elevator Safety Act. This issue has been discussed with building owners and elevator companies and both groups support the proposed rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 28th day of August, 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DIVISION OF BUILDING SAFETY**  
**Safety Rules for Elevators, Escalators, and Moving Walks**

**Docket No. 07-0402-0701**  
**PENDING RULE**

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **004. ADOPTION AND INCORPORATION BY REFERENCE.**

**01. Documents.** ~~There are no documents~~ The following codes, amendments, and updates are hereby adopted and incorporated by reference into these rules for all conveyances subject to this chapter. (4-6-05)( )

**a.** ANSI/ASME A17.1 2004, Safety Code for Elevators and Escalators with 2005 Addenda and 2005 Supplement. ( )

**b.** ANSI/ASME A17.2 2004 Guide for Inspection of Elevators, Escalators, and Moving Walks. ( )

**c.** ANSI/ASME A17.3 2005 Safety Code for Existing Elevators and Escalators. ( )

**d.** ANSI/ASME A17.4 1999 Guide for Emergency Personnel. ( )

**e.** ANSI/ASME A17.5 2005 Safety Standards for Platform Lifts and Chairlifts. ( )

**f.** ICC/ANSI A117.1 2003 Accessible and Usable Buildings and Facilities. ( )

**g.** ANSI/ASME A18.1 2005 Safety Standards for Platform Lifts and Chairlifts. ( )

**h.** ASME QE-1 2004 Standard for the Qualification of Elevator Inspectors. ( )

**02. Copies.** Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. ( )



**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.05.01 - PUBLIC CONTRACTORS LICENSE BOARD**

**DOCKET NO. 07-0501-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1907, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 160 through 171.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY  
Public Contractors License Board**

**Docket No. 07-0501-0701  
PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule change is necessary to facilitate the enforcement of changes to the subcontractor naming requirements contained in House Bill No. 139 enacted by the 2007 Idaho Legislature. The proposed rule changes consolidate two existing specialty construction categories that involve HVAC work into one category. This will eliminate confusion as to which category of license is applicable to the HVAC work being done.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because an immediate solution was necessary to avoid continued confusion about the appropriate license specialty involved and the solution is non-controversial.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 10th day of August 2007.

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY  
Public Contractors License Board**

**Docket No. 07-0501-0701  
PENDING RULE**

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### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.**

A license for Type 4-Specialty Construction shall list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: (4-6-05)

**01. 01107 Engineering.** A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. (4-6-05)

**02. 01541 Scaffolding and Shoring.** A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. (4-6-05)

**03. 01542 Craning and Erection.** A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)

**04. 01550 Construction Zone Traffic Control.** A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)

**05. 01570 Temporary Erosion and Sediment Controls.** A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)

**06. 02110 Excavation, Removal and Handling of Hazardous Material.** A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)

**07. 02115 Removal of Underground Storage Tanks.** A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)

**08. 02195 Environmental Remediation, Restoration and Soil Stabilization.** A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**09. 02210 Drilling.** A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. (4-6-05)

**10. 02220 Demolition.** A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)

**11. 02230 Site Clearing.** A specialty contractor whose primary business includes the ability and expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. (4-6-05)

**12. 02231 Logging.** A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)

**13. 02232 Tree Removal and Trimming.** A specialty contractor whose primary business includes pruning, removal, and/or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)

**14. 02240 Dewatering and Subsurface Drainage.** A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)

**15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls.** A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)

**16. 02265 Slurry Walls.** A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)

**17. 02270 Rockfall Mitigation and High Scaling.** A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)

**18. 02310 Excavation and Grading.** A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)

**19. 02312 Dust Control, Dust Abatement and Dust Oiling.** A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)

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- 20. 02317 Rock Trenching.** A specialty contractor whose primary business is rock trenching. (4-6-05)
- 21. 02318 Hauling.** A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)
- 22. 02319 Blasting.** A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliampere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)
- 23. 02325 Dredging.** A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)
- 24. 02404 Horizontal and Directional Earth Boring, Trenching and Tunneling.** A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)
- 25. 02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers.** A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers. (4-6-05)
- 26. 02500 Utilities.** A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)
- 27. 02520 Well Drilling.** A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)
- 28. 02580 Installation of Communication Towers.** A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)

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**29. 02660 Membrane Liners for Ponds and Reservoirs.** A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)

**30. 02720 Crushing.** A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)

**31. 02740 Asphalt Paving.** A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. (4-6-05)

**32. 02761 Traffic Marking and Striping.** A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. (4-6-05)

**33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing.** A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. (4-6-05)

**34. 02790 Athletic and Recreational Surfaces.** A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. (4-6-05)

**35. 02810 Sprinkler and Irrigation Systems.** A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) (4-6-05)

**36. 02820 Fencing.** A specialty contractor whose primary business includes the installation and repair of any type of fencing. (4-6-05)

**37. 02840 Guardrails and Safety Barriers.** A specialty contractor whose primary

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### **DIVISION OF BUILDING SAFETY Public Contractors License Board**

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business includes the installation of guardrails and safety barriers (including cattle guards).  
(4-6-05)

**38. 02850 Bridges and Structures.** A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts.  
(4-6-05)

**39. 02855 Bridge Crossings and Box Culverts.** A specialty contractor whose primary business is the installation and/or construction of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail.  
(4-6-05)

**40. 02880 Installation of School Playground Equipment.** A specialty contractor whose primary business is the installation of school playground equipment.  
(4-6-05)

**41. 02890 Traffic Signs and Signals.** A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work.  
(4-6-05)

**42. 02900 Landscaping, Seeding and Mulching.** A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith.  
(4-6-05)

**43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control.** A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control.  
(4-6-05)

**44. 02935 Landscape Maintenance.** A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems.  
(4-6-05)

**45. 02937 Pest Control, Sterilization and Herbicide Applications.** A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds.  
(4-6-05)

**46. 02955 Pipeline Cleaning, Sealing, Lining and Bursting.** A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines.  
(4-6-05)

**47. 02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding.** A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding.  
(4-6-05)

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**48. 02990 Structural Moving.** A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure. (4-6-05)

**49. 03200 Concrete Reinforcing Rebar Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete. (4-6-05)

**50. 03300 Concrete.** A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters. (4-6-05)

**51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting.** A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures. (4-6-05)

**52. 03380 Post-Tensioned Concrete Structures or Structural Members.** A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel. (4-6-05)

**53. 03500 Gypcrete.** A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete. (4-6-05)

**54. 03600 Concrete Grouting.** A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete. (4-6-05)

**55. 03650 Pressure Grouting and Slab Jacking.** A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. (4-6-05)

**56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting.** A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. (4-6-05)

**57. 04000 Masonry.** A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units,



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gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. (4-6-05)

**58. 04900 Chemical Cleaning and Masonry Restoration.** A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. (4-6-05)

**59. 05090 Welding.** A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. (4-6-05)

**60. 05100 Steel Fabrication, Erection and Installation.** A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. (4-6-05)

**61. 05700 Ornamental Metals.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but shall not include the work of a sheet metal contractor. (4-6-05)

**62. 05830 Bridge Expansion Joints and Repair.** A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. (4-6-05)

**63. 06100 Carpentry, Framing and Remodeling.** A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. (4-6-05)

**64. 06130 Log and Heavy Timber Construction.** A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. (4-6-05)

**65. 06139 Docks - Log and Wood Structures.** A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. (4-6-05)

**66. 06200 Finish Carpentry and Millwork.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as

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millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (4-6-05)

**67. 07100 Waterproofing and Dampproofing.** A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

**68. 07200 Thermal Insulation.** A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. (4-6-05)

**69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS).** A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. (4-6-05)

**70. 07400 Roofing and Siding.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but shall not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. (4-6-05)

**71. 07450 Siding and Decking.** A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) (4-6-05)

**72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. (4-6-05)

**73. 07800 Sprayed on Fireproofing.** A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. (4-6-05)

**74. 07920 Caulking and Joint Sealants.** A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (4-6-05)

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**75. 08100 Doors, Gates, Specialty Doors and Activating Devices.** A specialty contractor whose primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

**76. 08500 Windows, Glass and Glazing.** A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed. (4-6-05)

**77. 09110 Steel Stud Framing.** A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems. (4-6-05)

**78. 09200 Lath and Plaster.** A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

**79. 09250 Drywall.** A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing. (4-6-05)

**80. 09300 Tile and Terrazzo.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same. (4-6-05)

**81. 09500 Acoustical Treatment.** A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing. (4-6-05)

**82. 09600 Flooring.** A specialty contractor whose primary business includes the

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ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring. (4-6-05)

**83. 09680 Floor Covering and Carpeting.** A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft. (4-6-05)

**84. 09900 Painting and Decorating.** A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating. (4-6-05)

**85. 09950 Sand Blasting.** A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air. (4-6-05)

**86. 09960 Specialty Coatings.** A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings. (4-6-05)

**87. 10150 Institutional Equipment.** A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. (4-6-05)

**88. 10270 Raised Access Flooring.** A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. (4-6-05)

**89. 10445 Non-Electrical Signs.** A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. (4-6-05)

**90. 11001 Specialty Machinery and Equipment Installation and Servicing.** A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings and/or roof structures for this equipment. (4-6-05)

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**91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair.** A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

**92. 11200 Water/Wastewater and Chemical Treatment.** A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. (4-6-05)

**93. 11485 Climbing Wall Structures and Products.** A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. (4-6-05)

**94. 12011 Prefabricated Equipment and Furnishings.** A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. (4-6-05)

**95. 12490 Window, Wall Coverings, Drapes and Blinds.** A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. (4-6-05)

**96. 13110 Cathodic Protection.** A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. (4-6-05)

**97. 13121 Pre-Manufactured Components and Modular Structures.** A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. (4-6-05)

**98. 13125 Pre-Engineered Building Kits.** A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. (4-6-05)

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**99. 13150 Swimming Pools and Spas.** A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunite, tile, pavers or other special materials used in pool construction. This category shall also include the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. (4-6-05)

**100. 13165 Aquatic Recreational Equipment.** A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. (4-6-05)

**101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk).** A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. (4-6-05)

**102. 13280 Hazardous Material Remediation.** A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. (4-6-05)

**103. 13290 Radon Mitigation.** A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. (4-6-05)

**104. 13800 Instrumentation and Controls.** A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. (4-6-05)

**105. 13850 Alarm Systems.** A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). (4-6-05)

**106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers).** A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. (4-6-05)

**107. 13970 Fire Extinguisher and Fire Suppression Systems.** A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers. (4-6-05)

**108. 14200 Elevators, Lifts and Hoists.** A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable

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and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to the installation. (4-6-05)

**109. 15100 Pipe Fitter and Process Piping.** A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

**110. 15400 Plumbing.** A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with State Plumbing Bureau is required). (4-6-05)

**111. 15510 Boiler ~~Hot Water Heating~~ and Steam Fitting.** A specialty contractor who installs, services and repairs ~~power~~ boilers, ~~hot water heating systems~~ and associated steam distribution fitting, including fire tube and water tube steel power boilers and hot water heating low pressure boilers, steam fitting and piping, fittings, valves, gauges, pumps, radiators, convectors, fuel oil tanks, fuel oil lines, chimneys, flues, heat insulation and all other equipment, including solar heating equipment, associated with these systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. (4-6-05)( )

**112. 15550 Chimney Repair.** A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. (4-6-05)

**113. 15600 Refrigeration.** A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but shall not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. (4-6-05)

**114. 15700 Heating, Ventilation, and Air Conditioning (HVAC) ~~and Warm Air Heating~~.** A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning ~~and warm air heating~~ (HVAC) systems. ~~Systems may include, but are not limited to duct work, air filtering devices, water treatment devices, pneumatic or electrical controls and control piping, thermal and acoustical insulation,~~

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~~vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service connection to equipment served, testing and balancing refrigerant cooling and heating circuits and air handling systems.~~ Licensure by the Division of Building Safety as an HVAC contractor is required. (4-6-05)( )

**115. 15950 Testing and Balancing of Systems.** A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. (4-6-05)

**116. 16000 Electrical.** A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (3-30-07)

**117. 16700 Communication.** A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (4-6-05)

**118. 16800 Electrical Specialty Contractor.** A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: (3-30-07)

- a. **Elevator, Dumbwaiter, Escalator or Moving-Walk Electrical;** (3-30-07)
- b. **Sign Electrical;** (3-30-07)
- c. **Manufacturing or Assembling Equipment;** (3-30-07)
- d. **Limited Energy Electrical License (low voltage);** (3-30-07)
- e. **Irrigation Sprinkler Electrical;** (3-30-07)
- f. **Well Driller and Water Pump Installer Electrical; and** (3-30-07)
- g. **Refrigeration, Heating and Air Conditioning Electrical Installer.** (3-30-07)

**119. 18100 Golf Course Construction.** A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. (4-6-05)

**120. 18200 Underwater Installation and Diving.** A specialty contractor whose primary business is marine construction under and above water. (4-6-05)



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**121. 18300 Develop Gas and Oil Wells.** A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. (4-6-05)

**122. 18400 Nonstructural Restoration After Fire or Flood.** A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

**123. 18600 Building Cleaning and Maintenance.** A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind. (4-6-05)

**124. 18700 Snow Removal.** A specialty contractor whose primary business includes the plowing, removal and/or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. (4-6-05)

**125. 18800 Roadway Cleaning, Sweeping and Mowing.** A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. (4-6-05)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS**

**DOCKET NO. 07-0701-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 172 and 173.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

**Docket No. 07-0701-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The current administrative rule establishes the minimum requirements to obtain a HVAC (Heating, Ventilation, and Air Conditioning) Specialty Hearth Installer license, which includes specific education requirements. This rule change provides an alternative to those requirements for someone who has obtained the experience and knowledge from sources other than the requirements listed in the current rule.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** This rule change is the result of long-term, informal negotiations with the Hearth industry, and is endorsed by their representatives. As such, no formal negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 13th day of August 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

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**Docket No. 07-0701-0701**  
**PENDING RULE**

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **024. HVAC HEARTH SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS – REQUIREMENTS.**

Certification as a hearth specialty journeyman entitles the holder to install hearth appliances and the associated gas lines. ~~Requirements for HVAC~~ Hearth Specialty Journeymen are: required to meet the experience requirement and either the education or examination requirement to receive a certificate of competency. (4-11-06)( )

**01. Experience.** Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. (4-11-06)

**02. Education.** Successfully complete a board approved training course(s), such as the National Fireplace Institute program and a minimum of sixty (60) hours of education in fuel gas code and piping installation methods. (4-11-06)( )

**03. Examination.** ~~Applicants for certification as HVAC specialty journeymen must~~ Successfully complete an examination designated by the board. (4-11-06)( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS**

**DOCKET NO. 07-0701-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 174 and 175.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

**Docket No. 07-0701-0702**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This limited specialty license would allow waste oil heating equipment installers to install this equipment without obtaining a full unlimited HVAC (Heating, Ventilation, and Air Conditioning) contractor and/or journeyman license. The installer would be required to meet the licensure requirements to perform installations establishing a minimum level of competency to the public. The proposed rule changes establish a specialty HVAC license for waste oil heating equipment installers.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** This rule change is the result of informal negotiations between the Division of Building Safety, the HVAC Board, and the waste oil heating industry. As such, no formal negotiated rulemaking was conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 13th day of August 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

**Docket No. 07-0701-0702**  
**PENDING RULE**

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### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **027. HVAC WASTE OIL HEATING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS - REQUIREMENTS.**

Certification as a waste oil heating specialty journeyman entitles the holder to install non-duct connected waste oil heaters. Waste oil heating specialty journeymen are limited to the maintenance, installation, and repair of the equipment, controls, and piping directly associated with the waste oil heater, tank, and burner only. Any plumbing, electrical, ducting, venting, or associated equipment beyond the waste oil heater, tank, and burner shall be installed by others. Applicants for the waste oil heating specialty journeyman certificate of competency are required to meet the experience and examination requirements as defined in Section 027. ( )

**01. Experience.** Demonstrate to the satisfaction of the board, a minimum of one (1) year experience making waste oil heating installations under the supervision of a qualified HVAC journeyman or HVAC Waste Oil Heating specialty journeyman. ( )

**02. Examination.** Applicants for certification as HVAC waste oil specialty journeymen must successfully complete a waste oil burner manufacturers certification or examination as approved by the board. ( )

**0278. -- 049. (RESERVED).**

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS**

**DOCKET NO. 07-0701-0703**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 176 and 177.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

DATED this 1st day of November, 2007.

Stephen L. Keys  
Deputy Administrator - Operations  
Division of Building Safety  
1090 E. Watertower St., Meridian, Idaho  
P. O. Box 83720, Boise, Idaho 83720  
(208) 332-8986 phone  
(208) 855-2164 fax



## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

**Docket No. 07-0701-0703**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5005(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This limited specialty license would allow fuel gas piping installers to install this equipment without obtaining a full unlimited HVAC (Heating, Ventilation, and Air Conditioning) contractor and/or journeyman license. The installer would be required to meet the licensure requirements to perform installations establishing a minimum level of competency to the public. The proposed rule changes establish a specialty HVAC license for fuel gas piping installers.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this issue has been discussed with representatives of the affected industry at several HVAC Board meetings and the rule is a result of those discussions.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen L. Keys, Deputy Administrator - Operations, at (208) 332-8986.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 13th day of August 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DIVISION OF BUILDING SAFETY**  
**Rules Governing the Installation of HVAC Systems**

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**Docket No. 07-0701-0703**  
**PENDING RULE**

### *THE FOLLOWING IS THE TEXT OF THE PENDING RULE*

**028. HVAC FUEL GAS PIPING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS - REQUIREMENTS.**

Certification as fuel gas piping specialty journeyman entitles the holder to install fuel gas piping only and shall not make the final termination. Appliances and the associated gas piping, chimney, and vents shall be installed by others. Fuel gas specialty journeymen are required to meet the experience requirement and either the education or examination requirement of Section 028 to receive a certificate of competency. ( )

**01. Experience.** Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. ( )

**02. Education.** Successfully complete a board approved training course(s), of a minimum of sixty (60) hours of education in fuel gas code and piping installation methods.( )

**03. Examination.** Successfully complete an examination designated by the board. ( )

**0279. -- 049. (RESERVED).**

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 09 - DEPARTMENT OF LABOR**

### **09.01.06 - RULES OF THE APPEALS BUREAU**

**DOCKET NO. 09-0106-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes in the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Volume 07-9, pages 70 through 72.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joe Karpach, Appeals Bureau Chief, 332-3570 ext. 3572.

DATED this 29th day of October, 2007.

Joe Karpach  
Appeals Bureau Chief  
Department of Labor  
317 W. Main Street  
Boise, ID 83735  
332-3570 ext. 3572  
334-6440 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF LABOR  
Rules of the Appeals Bureau**

**Docket No. 09-0106-0701  
PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**IDAPA 09.01.06.026.05 and 066.02 would be amended to remove the word “tape” in reference to the recordings made of appeals hearings. Because the technology is now available to produce compact discs as recordings of telephonic appeals hearings, it is an efficient use of resources to send parties CDs instead of cassette tapes as part of the record when appeals are filed with the Industrial Commission.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

**There will be no impact on the General Fund as a result of this rule change.**

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, “Idaho Rules of Administrative Procedure of the Attorney General,” negotiated rulemaking was not conducted because the agency determined it was not feasible because of the simple nature of the change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joe Karpach, Appeals Bureau Chief, 332-3570 ext. 3572.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 3rd day of August, 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DEPARTMENT OF LABOR  
Rules of the Appeals Bureau

Docket No. 09-0106-0701  
PENDING RULE

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 026. CONDUCT OF HEARING.

Upon request for appeal, a hearing shall be set and written notice of the time and place of hearing shall be mailed to each interested party not less than seven (7) days prior to the hearing date.

~~(2-25-94)~~( )

**01. Telephone Hearings.** Hearings will be held by telephone unless, in the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner shall consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. (3-19-99)

**02. Continuance.** The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may order the dismissal of an appeal for good cause, such as abandonment of the appeal. (3-19-99)

**03. Rehearing.** An application for rehearing shall be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. (3-19-99)

**04. No Appearance Hearings.** If no party appears to present additional evidence, a decision may then be based on the existing record. For this purpose, the existing record will consist of documents maintained by the Department in the ordinary course of adjudicating the issues in the case, copies of which have been provided to the parties with the notice of hearing. (4-11-06)

**05. Exhibits and Recordings.** The exhibits and ~~tape~~ recordings from a hearing may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. ~~(3-19-99)~~( )

**06. Subpoenas.** After determining that a subpoena of a witness or records is necessary and reasonable, the appeals examiner shall issue the subpoena, which may be served by mail or in person. (3-19-99)

**07. Failure to Respond to Subpoena.** If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing the available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. (3-19-99)

**08. Witness Fees.** Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, shall be entitled to receive a fee of seven dollars and fifty cents (\$7.50) for each day or portion thereof for attendance. In no case shall a witness be paid more than seven dollars and fifty cents (\$7.50) for any one (1) day. Subpoenaed witnesses shall also be

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF LABOR Rules of the Appeals Bureau

Docket No. 09-0106-0701  
PENDING RULE

entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses shall be paid from the Employment Security Administration fund. Under no circumstances shall interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. (4-5-00)

**09. Undecided Issues.** When it is apparent that there is no prior ruling on an issue which must be decided under the Act, the appeals examiner may hear and decide the issue. (3-19-99)

**10. Type of Hearing.** The proceeding before an appeals examiner will be a hearing “de novo” or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**11. Role of Appeals Examiner.** The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**12. Order of Witnesses.** The appeals examiner will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Therefore, as a general rule, the party who bears the burden of proof will be called to testify first. The appeals examiner will exercise reasonable discretion in directing the order, which must be flexible and dependent upon the particular circumstances of each case and which party has the most information. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**13. Evidence.** The appeals examiner may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-11-06)

**14. Disruptive Individuals.** The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, he will be provided a copy of the ~~tape~~ recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ~~(4-5-00)~~( )

**15. Challenge of General Knowledge.** If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner’s specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them either at the time of the hearing or prior to or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

**16. Closing Arguments.** Closing arguments including response in an appeals hearing will be limited to a total of five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. (4-5-00)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF LABOR**  
**Rules of the Appeals Bureau**

**Docket No. 09-0106-0701**  
**PENDING RULE**

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**027. -- 065. (RESERVED).**

**066. CLAIMS FOR REVIEW.**

**01. Claim for Review Under the Employment Security Law.** A claim for review of the appeals examiner's decision, as provided in Section 72- 1368, Idaho Code, shall be made in writing, signed by the person claiming the review or by his attorney or agent, and filed with the Idaho Industrial Commission in accordance with rules adopted by them. Ref. Sec. 72-1368(7) Idaho Code. (4-5-00)

**02. Transcripts.** Upon receipt of a notice that a claim for review has been filed with the Industrial Commission, a true and correct transcript of the recorded proceedings shall be prepared if ordered by the Commission. Copies of the transcript or the ~~tape~~ recording of the proceeding, together with the exhibits received in the case, shall be transmitted by the Department to the Commission and provided to all interested parties without charge. (~~3-19-99~~)(\_\_\_\_)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 09 - DEPARTMENT OF LABOR**

### **09.01.30 - RULES OF THE BENEFITS BUREAU**

**DOCKET NO. 09-0130-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes in the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Volume 07-9, pages 73 through 74.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 ext. 3233.

DATED this 29th day of October, 2007.

Roger Holmes  
UI Benefits Bureau Chief  
Department of Labor  
317 W. Main St.  
Boise, ID 83735  
332-3570 ext. 3233  
334-6400 fax



## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF LABOR**  
**Rules of the Benefits Bureau**

**Docket No. 09-0130-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**IDAPA 09.01.30.550 would be amended to add a sentence requiring claimants to use their assigned reporting method when filing claim reports unless the Department reassigns them a different reporting method. The rule on claimant reporting requirements needs to be clarified to indicate that after claimants are assigned a reporting method, they may not file claim reports using a different reporting method unless the Department reassigns the reporting method.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no impact on the General Fund as a result of this rule change.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change is being made to clarify an existing rule that has caused confusion.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Roger Holmes, UI Benefits Bureau Chief, 332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF LABOR**  
**Rules of the Benefits Bureau**

**Docket No. 09-0130-0701**  
**PENDING RULE**

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DATED this 3rd day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **550. REPORTING REQUIREMENTS.**

Each claimant shall report weekly or biweekly for benefits as directed. When filing claim reports, a claimant shall use the reporting method assigned by the Department. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. ~~(3-19-99)~~( )

**01. In-Person Reports.** A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (3-19-99)

**02. Mailed Reports.** Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (3-19-99)

**03. Telephone/Internet Reports.** Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. (3-20-04)

**04. When Report Missing.** If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 09 - DEPARTMENT OF LABOR**

**09.02.01 - RULES OF THE DISABILITY DETERMINATIONS SERVICE**

**DOCKET NO. 09-0201-0701 (NEW CHAPTER)**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**There are no changes in the pending rule. The pending rule is being adopted as originally proposed. The text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Volume 07-9, pages 75 through 77.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy Vazquez, Administrator, Disability Determinations Service, 332-3570 ext. 2303.

DATED this 29th day of October, 2007.

Nancy Vazquez, Administrator  
Disability Determinations Service  
1505 McKinney  
P.O. Box 21  
Boise ID 83704  
(208)332-3570 ext. 2303  
(208)327-7331 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF LABOR**  
**Rules of the Disability Determinations Service**

**Docket No. 09-0201-0701**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-1333, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**New IDAPA 09.02.01 is proposed in response to a request by the Social Security Administration (SSA) to limit the length of time allowed for Disability Determinations Service's (DDS) vendors to submit invoices for payment. A rule that requires a vendor to submit invoices within one year of the date services were provided is reasonable and would satisfy SSA, which funds DDS's services with federal grants. The proposed rule would set a one-year time limit for submission of bills by vendors from date of service in order to receive payment. If the rule is not promulgated, DDS will continue to have outstanding unliquidated obligations for a five-year period, which jeopardizes federal reimbursement for any obligations that are not submitted within the five-year period.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There will be no impact on the General Fund as a result of this rule.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is in response to federal recommendations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nancy Vazques, Administrator, Disability Determinations Service 332-3570 ext. 2303.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26,

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF LABOR**  
**Rules of the Disability Determinations Service**

**Docket No. 09-0201-0701**  
**PENDING RULE**

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2007.

DATED this 3rd day of August, 2007.

## ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

### **IDAPA 09, TITLE 02 CHAPTER 01**

#### **09.02.01 - RULES OF THE DISABILITY DETERMINATIONS SERVICE**

##### **000. LEGAL AUTHORITY.**

These rules are promulgated under the legal authority of Section 72-1333, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 09.02.01, "Rules of the Disability Determinations Service." ( )

**02. Scope.** These rules govern time limits for submission of invoices by vendors for payment for services. ( )

##### **002. WRITTEN INTERPRETATIONS.**

The Department has no written interpretations of these rules. ( )

##### **003. ADMINISTRATIVE APPEALS.**

There is no administrative appeal from any proceedings brought pursuant to this chapter. ( )

##### **004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. ( )

##### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The mailing address of the Department for information regarding the Disability Determinations Service is: Disability Determinations Service, 1505 McKinney, Boise, ID 83704. The telephone number is (208) 327-7333 and the facsimile machine number is (208) 327-7331. Office hours are between 8 a.m. and 5 p.m. on regular business days Monday through Friday. ( )

##### **006. PUBLIC RECORDS ACT COMPLIANCE.**

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF LABOR Rules of the Disability Determinations Service

Docket No. 09-0201-0701  
PENDING RULE

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Act (title 9, chapter 3, Idaho Code). ( )

**007. -- 009. (RESERVED).**

#### **010. DEFINITIONS.**

Unless the context clearly requires otherwise, these terms shall have the following meanings when used in these Rules. ( )

**01. Consultative Examinations.** Consultative examinations include physical and mental examinations, x-rays, laboratory tests, and special diagnostic studies from qualified sources. ( )

**02. Medical Evidence of Record.** Medical evidence of record includes, but is not limited to, medical history reports, medical opinions, treatment records, copies of laboratory reports, prescriptions, ancillary tests, x-rays, operative and pathology reports, consultative reports, and other technical information used to document disability claims. ( )

**03. Applicant Travel.** Applicant travel includes costs associated with applicants, beneficiaries, recipients, and other authorized individuals in connection with attending medical examinations or disability hearings by common carrier (air, rail, or bus), privately owned vehicles, commercially rented vehicles, and other special conveyances. ( )

**04. Interpretive Services.** Interpretive services include authorized contracted interpreters for individuals with limited English proficiency or requiring language assistance for a consultative examination or disability hearing. ( )

**011. -- 021. (RESERVED).**

#### **022. PAYMENT FOR SERVICES.**

In order to receive payment for services provided, submission of bills must be within one year from date of service. This includes consultative examinations, medical evidence of record, applicant travel, and interpretative services. ( )

**023. -- 999. (RESERVED).**

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 15 - OFFICE OF THE GOVERNOR  
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES  
AND PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-0702**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 327 through 364.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Judie Wright, Acting Administrator, at (208) 854-3054.

DATED this 29th day of October, 2007.

Judie Wright, Acting Administrator  
Division of Human Resources  
700 W. State St.  
P. O. Box 83720, Boise, Idaho 83720-0066  
(208) 854-3054 phone / (208) 334-2438 fax

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***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
**Rules of the Div. of Human Resources & Personnel Commission**    **PENDING RULE**

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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5309, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Changes to definitions, veterans preference, compensation of employees, moving expense reimbursement, probationary period for acting and temporaries, performance evaluation, military leave, overtime for executives and bone marrow and organ donor leave to comply with new code provisions.**

**This rulemaking will help reduce liability costs to the state by eliminating the accrual of earned administrative leave. The rule will allow for limited use of earned administrative leave for law enforcement and firefighting purposes; eliminate earned administrative leave for all other employees; allow for additional pay if extra hours are worked during a holiday week and; prohibit use of leaves if they result in additional compensation.**

**This rulemaking is necessary to streamline the rules to coincide with the statewide human resource policies. The changes remove redundant rules that are already covered in Idaho Code or can be better handled as a statewide policy; update the Department of Commerce and Labor to the Department of Labor; and add delegate authority to those agencies who will have delegate authority on human resource issues.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes reflect the Governor's directive to consolidate rules and policies, and in the interest of time.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Judie Wright, Acting Administrator, at (208) 854-3054.



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION    Docket No. 15-0401-0702**  
**Rules of the Div. of Human Resources & Personnel Commission    PENDING RULE**

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Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 29th day of August, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **001.    TITLE, AND SCOPE, ~~AND COMPLIANCE~~.**

**01.    Title.** These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission." (3-16-04)

**02.    Scope.** These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

~~**03.    Compliance.** In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities shall ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code.~~ (3-16-04)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **004.    ADDRESS AND PHONE NUMBERS OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION.**

The offices of the Division of Human Resources and Idaho Personnel Commission are located at 700 West State Street, Boise, Idaho 83720-0066. The phone number of the Commission and the Division of Human Resources is (208) 334-2263. Additional phone numbers are: a toll-free number, 1-800-554-JOBS (5627); ~~a toll-free TDD or telecommunications device for the deaf, 1-800-542-5738.~~ The Division's and Commission's FAX number is (208) 334-~~3182~~ 2438. (3-16-04)(\_\_\_\_)

### ***(BREAK IN CONTINUITY OF SECTIONS)***

#### **009.    ~~DUTIES OF THE ADMINISTRATOR~~ (RESERVED).**

~~In addition to other duties as assigned by law, the administrator shall provide administrative support to the Idaho Personnel Commission, shall have custody of the books and records of the Division of Human Resources and the Commission, and shall maintain a record of the proceedings before the Commission and its hearing officers.~~ (3-16-04)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
**Rules of the Div. of Human Resources & Personnel Commission**    **PENDING RULE**

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### **010. DEFINITIONS.**

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**01. Administrator.** The Administrator of the Division of Human Resources in the Office of the Governor. (3-16-04)

**02. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. (3-16-04)

**03. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. (3-16-04)

**04. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the Commission. (3-16-04)

**05. Appointing Authority.** "Appointing Authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any department. (Ref. Section 67-5302(3), Idaho Code) (3-16-04)

**06. Appointment, Limited.** The appointment of a person to a classified, position where the work is projected to be of limited duration, for which the person has qualified by examination. (3-16-04)

**07. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

**08. Appointment, ~~Original or~~ Initial.** ~~For purpose of assigning veteran's preference points, the first time a person is hired by a state agency after attaining eligible veteran's status.~~ Means the first time a qualified veteran is hired by the state. "Initial appointment" shall not include: (Ref. Section 65-506(3)2(4), Idaho Code and Rule 102.04) ~~(3-16-04)~~( )

**a.** Jobs held by patients, inmates or students employed at a state institution; ( )

**b.** Temporary or casual employment; or ( )

**c.** An office filled by election. ( )

**09. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Chapter 53, Title 67, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
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**10. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

**11. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

**12. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. (3-16-04)

**13. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) (3-16-04)

**14. Appointment, Temporary.** The appointment of a person to a nonclassified position which is ~~not permanent in nature~~ limited in duration, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) ~~(3-16-04)~~( )

**15. Base Pay.** The rate of pay for performing a job which does not include bonuses, shift differentials, geographic differentials, overtime or other compensation premiums. ( )

**16. Bureau Chief or Equivalent.** An employee assigned responsibility for managing a bureau. A bureau is typically a principal unit of a division with several subordinate sections. A classification can be designated as equivalent to a bureau chief by the Administrator if it is structured similarly in terms of organization and level of responsibility. Such positions will typically have seven hundred (700) or greater Hay evaluation points. ( )

**157. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the classification for which the register was established. (3-16-04)

**168. Classification Specification.** A written statement of the purpose and responsibilities characteristic of a classification, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the classification. (3-16-04)

**179. Classification Schedule.** All classification specifications utilized in classified service listed by title, classification code, and pay grade to which allocated. (3-16-04)

**1820. Classified Service.** That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
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nonclassified appointments. (7-1-87)

**21. Compa-Ratio.** The percentage difference between salary and salary range mid point. Compa-ratio is derived by dividing an employee's base pay rate by the salary range mid point. ( )

~~1922.~~ **Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309A, 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules; Division of Human Resources and Idaho Personnel Commission rules and policies; and departmental policies governing employee pay. (3-16-04)( )

~~203.~~ **Compensation Schedule.** The pay grades established by the Division of Human Resources by rule per Section 67-5309B(1), Idaho Code, and associated rates of pay established in Rule 070.05. (3-30-01)( )

~~214.~~ **Consultant.** An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Rule 050) (3-16-04)

~~225.~~ **Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification in a lower pay grade. (3-16-04)

~~236.~~ **Departmental Classification.** A classification of positions that is unique to a department. (3-16-04)

~~247.~~ **Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-87)

~~258.~~ **Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). (3-16-04)

~~269.~~ **Earned Administrative Leave (EAL).** Paid leave for hours worked which exceed the regularly scheduled hours but do not result in overtime. ~~These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) workweek. In the case of those employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, EAL hours may accrue after hours worked and hours on paid leave exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days.~~ (3-30-01)( )

~~a.~~ **Eligibility to Earn EAL.** Employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, can accrue earned administrative leave, if hours earned but not worked exceed one hundred sixty (160) hours in a period of twenty-eight (28) consecutive days. All other employees are ineligible to accrue EAL. ( )

~~2730.~~ **Employee.** Any person in the employ of a state department who is paid a salary or wages. (4-5-85)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
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**2831. Employment History.** The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (3-30-01)

**2932. Examination.** The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

**303. Factoring.** The assignment of ~~Hay~~ evaluation points to a classification in accordance with ~~Section 67-5309B, Idaho Code, and~~ Rule 074. (~~3-30-01~~)(\_\_\_\_)

**314. General Classification.** A classification of positions that is common to more than one participating department. (3-16-04)

**325. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

**36. Hay System.** The methodology currently used by the state of Idaho for establishing the relative value of jobs and is used as a dimension of the pay system. The Hay system makes use of compensable factors or job attributes as a basis for evaluating the relative worth of one job against another. (\_\_\_\_)

**337. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement and/or transfer may be considered and are provided in addition to the top ten. (3-16-04)

**348. Hours Worked:** (7-1-87)

**a.** Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time. (Ref. Rule 010.409) (~~3-30-01~~)(\_\_\_\_)

**b.** Travel time shall be compensated pursuant to policy set forth by the Board of Examiners. (3-30-01)

**c.** Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)

**359. Incumbent.** Any person holding a classified or non-classified position in state service. (7-1-87)

**3640. Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 010.21) (3-16-04)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
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**~~3741.~~** **Interested Person.** A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)

**~~3842.~~** **Intoxication.** Being under the influence of alcohol, or misuse of medication or controlled substances. (Ref. Rule 190.01.f.) (3-30-01)

**~~3943.~~** **Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

**44.** **Key Employee.** For veteran purposes, an individual specifically hired for an "at will" or nonclassified position for which there is no or a limited selection process, such as a position as a private secretary or deputy to an official who holds a confidential relationship to the appointing or employing officer. (Ref. Section 65-502(5), Idaho Code). (\_\_\_\_)

**~~405.~~** **Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

**~~416.~~** **Layoff Unit (Organizational Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). (3-16-04)

**~~427.~~** **Leave of Absence with Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

**~~438.~~** **Leave of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

**~~449.~~** **Light or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

**~~450.~~** **Merit Increase.** The advancement of an employee's base pay compensation in accordance with Section 67-5309**~~C(b)~~B**, Idaho Code. (~~7-1-87~~)(\_\_\_\_)

**51.** **Merit Increase Matrix.** A pay distribution tool adopted by the state of Idaho used to advance employees pay based on performance and market data. (\_\_\_\_)

**52.** **Military Duty** (for veteran preference points). Training and service performed by an inductee, enlistee or reservist or any entrant into the armed forces of the United States, provided "military duty" shall not include active duty training as a reservist in the armed forces of the United States or as a member of the National Guard of the United States where the call is for

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**HUMAN RESOURCES AND PERSONNEL COMMISSION**    **Docket No. 15-0401-0702**  
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training only. (Ref. Section 65-502(6), Idaho Code.) ( )

**4653. Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

**4754. New Classification.** A classification that is not essentially described by any existing job classification. (3-16-04)

**4855. Occasional or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

**4956. On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (3-30-01)

**507. Overtime.** Those hours defined as such in Section 67-5302(~~4920~~), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (~~7-1-87~~)( )

**548. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309C(~~b~~)(~~i~~)D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B(~~a~~), Idaho Code, as approved by the administrator. (~~3-30-01~~)( )

**59. Permanent.** An employee in the classified service who has successfully completed entrance probation. Such employees remain subject to separation as set forth in these rules and Idaho Code. ( )

**5260. Position, Classified.** A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)

**5361. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) classification to a position in another classification having a higher paygrade. (3-16-04)

**5462. Promotion, In-Grade.** To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position which he or she occupies in one classification to a position in another classification having greater ~~Hay~~ evaluation points, more responsibility, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (~~3-16-04~~)( )

**5563. Rating/Job Point Factoring.** The number of ~~Hay~~ evaluation points assigned to a classification in accordance with Rule 074. (~~3-16-04~~)( )

**564. Reasonable Accommodation.** An adjustment made to a job and/or work

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environment that enables a qualified individual with a disability to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Rule 190.01.c.) (7-1-87)

**5765.    Reclassification of a Position.** A change of a position from the classification to which it is assigned to another classification. (3-16-04)

**5866.    Reclassification of an Employee.** ~~Means~~ A change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (~~3-16-04~~)(      )

**5967.    Recruitment.** The process of seeking applicants for employment. (3-16-04)

**608.    Reduction in Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

**649.    Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator or delegate. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (~~3-16-04~~)(      )

**6270.    Reinstatement.** The reappointment of a former or current classified employee pursuant to Rule 124. (3-16-04)

**6371.    Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (Ref. Rule 244) (3-16-04)

**6472.    Respondent.** The party whose interests are adverse to those of the appellant. (7-1-93)

### **73.    Sample Merit Increase Matrix.**

<b>SAMPLE MERIT INCREASE MATRIX</b>				
<b><u>Employees Total Salaries</u></b>	<b><u>Does Not Achieve Performance Standards</u></b>	<b><u>Achieves Performance Standards</u></b>	<b><u>Solid/Sustained Performance</u></b>	<b><u>Exemplary Performance</u></b>
<b><u>Performance Percentage Guideline</u></b>	<b><u>3%</u></b>	<b><u>17%</u></b>	<b><u>60%</u></b>	<b><u>20%</u></b>
<b><u>Compa Ratio</u></b>	<b><u>Percentage Increase</u></b>			
<b><u>120% to 125%</u></b>	<b><u>0%</u></b>	<b><u>0.50%</u></b>	<b><u>1.50%</u></b>	<b><u>2.50%</u></b>
<b><u>115% to 119%</u></b>	<b><u>0%</u></b>	<b><u>1.00%</u></b>	<b><u>2.00%</u></b>	<b><u>3.00%</u></b>
<b><u>110% to 115%</u></b>	<b><u>0%</u></b>	<b><u>1.50%</u></b>	<b><u>2.50%</u></b>	<b><u>3.50%</u></b>



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<b>SAMPLE MERIT INCREASE MATRIX</b>				
<u>Employees Total Salaries</u>	<u>Does Not Achieve Performance Standards</u>	<u>Achieves Performance Standards</u>	<u>Solid/Sustained Performance</u>	<u>Exemplary Performance</u>
<u>Performance Percentage Guideline</u>	<b>3%</b>	<b>17%</b>	<b>60%</b>	<b>20%</b>
<u>Compa Ratio</u>	<u>Percentage Increase</u>			
<u>105% to 109%</u>	<u>0%</u>	<u>2.00%</u>	<u>3.00%</u>	<u>4.00%</u>
<u>100% to 104%</u>	<u>0%</u>	<u>2.50%</u>	<u>3.50%</u>	<u>4.50%</u>
<u>95% to 99%</u>	<u>0%</u>	<u>3.00%</u>	<u>4.00%</u>	<u>5.00%</u>
<u>90% to 94%</u>	<u>0%</u>	<u>3.50%</u>	<u>4.50%</u>	<u>5.50%</u>
<u>85% to 89%</u>	<u>0%</u>	<u>4.00%</u>	<u>5.00%</u>	<u>6.00%</u>
<u>80% to 84%</u>	<u>0%</u>	<u>4.50%</u>	<u>5.50%</u>	<u>6.50%</u>
<u>75% to 79%</u>	<u>0%</u>	<u>5.00%</u>	<u>6.00%</u>	<u>7.00%</u>

( )

**6574. Status.** The character of an employee's appointment. (7-1-77)

**6675. Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (7-1-87)

**676. Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 152. (3-16-04)

**6877. Traded Time.** Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)

**6978. Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

**709. Underfill.** The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. (3-16-04)

**80. USERRA.** Uniformed Services Employment and Reemployment Rights Act, 38 United States Code, Sections 4301-4333. ( )

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**781. Veteran.** Rule 020 defines veteran for the purpose of selection, hiring, and retention preference. (3-16-04)

**782. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (12-10-90)

**011. -- 0189. (RESERVED).**

**~~019. BASIC MERIT REQUIREMENTS OF THE PERSONNEL SYSTEM.~~**

~~All appointments, promotions and separations in the classified service shall be based on competence, valid job requirements, and individual performance.~~ (3-30-01)

**020. VETERANS PREFERENCE.**

Preference must be given to qualified veterans ~~who are residents of Idaho in all employment actions including hiring, transfer, promotion~~ initial appointment, and retention except for confidential secretarial key employee positions. (3-30-01)( )

~~**01. Veteran Defined (for preference purposes).** Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code)~~ (3-30-01)

~~**02. War Veteran (War Era) and Disabled Veteran Defined (for preference points on competitive exam).** War veterans and Disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code)~~ (3-16-04)

~~**03. Promotion/Transfer Consideration.** Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, 65-509, and 67-5309, Idaho Code)~~ (3-16-04)

~~**04. Retention.** War Veterans (War Era) (as defined in Chapter 5, Title 65, Idaho Code) shall receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule 140 and Section 65-503, Idaho Code)~~ (3-16-04)

**~~021. DISCRIMINATION PROHIBITED.~~**

~~No person shall be discriminated against in regards to appointments, promotions, demotions, separations, transfers, compensation, or other terms, conditions, or privileges of employment because of race, national origin, color, sex, age, religion, disability, or veteran status (unless under other than honorable conditions).~~ (3-30-01)

**~~022. PROHIBITED QUESTIONS.~~**

~~All questions on applications and examinations shall be based on valid job requirements.~~

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~~Questions which impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted. (Ref. Rule 020) (3-16-04)~~

**~~023.    BONA FIDE OCCUPATIONAL QUALIFICATION.~~**

~~Qualification requirements based on age or gender may be established as necessary for specific positions by the Administrator of the Division of Human Resources. (3-30-01)~~

**~~024.    CONFLICT OF INTEREST AND PERSONAL CONDUCT.~~**

~~The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to implement Rule 273. (3-16-04)~~

**0251.    NEPOTISM.**

No employee shall work under the immediate supervision of a supervisor who is a spouse, child, parent, brother, sister or the same relation by marriage. (8-1-81)

**0262.    DUAL EMPLOYMENT.**

There shall be no conflicting hours of work when a classified employee is employed by more than one (1) state department. The employee shall obtain approval from all appointing authorities concerned prior to beginning dual employment. (Ref. Rule 260) (4-5-85)(\_\_\_\_)

**0273. -- 039.    (RESERVED).**

### **(BREAK IN CONTINUITY OF SECTIONS)**

**050.    CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**01.    No Fee Basis.** No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

**02.    Limited Use Only.** Individuals employed through contracts with temporary services or professional staffing agencies shall be utilized only for short-term situations. (3-30-01)

~~**03.    Conflict of Interest/Nepotism.** Agency policies regarding conflict of interest/nepotism should address the award of work to consultants and contractors. See Rule 024 and 025. Also Ref. Section 18-1359, Idaho Code. (3-16-04)~~

**043.    Not to Be Treated as Employees.** Independent contractors, their staff or

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consultants shall not be treated as employees. ~~Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions.~~

(3-16-04)(\_\_\_\_)

#### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **~~061. ANALYSIS OF CLASSIFICATIONS.~~**

~~The Division of Human Resources shall assist appointing authorities in the analysis of positions in determining proper classification and shall, at the determination of the administrator, conduct independent classification reviews of the various departments.~~

(4-5-85)

#### **~~062. AUTHORITY.~~**

~~The administrator shall have the responsibility and authority to classify positions in the classification schedule.~~

(3-30-01)

#### **~~063. REVIEW OF CLASSIFICATION SCHEDULE.~~**

The administrator, in cooperation with the various appointing authorities, shall ensure the appropriateness and accuracy of classification specifications.

(3-16-04)

#### **~~064. AMENDMENT OF CLASSIFICATION SCHEDULE.~~**

~~**01. Changes to Classifications.** Whenever it is necessary to establish or delete a classified position or to revise a position's responsibilities, the appointing authority shall submit proposed changes to the administrator.~~

(3-30-01)

~~**02. Approval.** Each appointing authority, prior to establishing any new position within the department, shall obtain the approval of the administrator for the classification of such positions and their assignment to a pay grade in the compensation schedule. Approval by the administrator of the Division of Financial Management for sufficiency of funds is also required.~~

(3-30-01)

~~**03. Assignment to Pay Grade Required.** No person shall be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and assigned to a pay grade in accordance with these rules.~~

(3-30-01)

#### **~~065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.~~**

~~**01. New and Refactored Classifications.** New classifications of work and revised classifications require approval by both the administrator and the Division of Financial Management administrator when there is a fiscal impact.~~

(3-16-04)

~~**02. Revised and Deleted Classifications.** Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator.~~

(3-16-04)

#### **~~066. ABOLISHMENT OF POSITIONS.~~**

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~~An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147.~~ (7-1-87)

### **0672. RECLASSIFICATION OF POSITIONS.**

**01. Procedure.** Positions may be reclassified in the same pay grade, upward, or downward ~~as determined by an~~ based on analysis by Division of Human Resources' ~~staff or delegate of the duties and responsibilities assigned by appointing authorities to specific positions.~~ An incumbent ~~occupying a reclassified position~~ shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)(\_\_\_\_)

**02. Effective Date.** Reclassifications of positions ~~shall not be effective until they are approved by the administrator, but~~ may be retroactive to the beginning of the pay period ~~during which approval is granted.~~ Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)(\_\_\_\_)

### **068. VIOLATIONS.**

~~Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code)~~ (3-16-04)

### **063. -- 069. (RESERVED).**

### **070. COMPENSATION OF EMPLOYEES.**

**01. The Hay System.** ~~The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code)~~ (3-16-04)

**02. Salary Surveys.** ~~The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service.~~ (3-16-04)

**031. Relevant Labor Markets.** Labor markets used for wage comparison shall ~~be based on the normal recruiting market~~ consist of public and private employers in the state of Idaho for specific job classifications. ~~Consultation with various appointing authorities will also contribute to labor market determination.~~ For those job classifications with no private or public counterparts, the comparator market will be public employers including, but not limited to, the states of Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. (3-16-04)(\_\_\_\_)

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~~a.    When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. (3-16-04)~~

~~b.    For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. (3-16-04)~~

~~c.    Recruitment and retention issues will be used to determine the need for additional special market surveys. (3-16-04)~~

**02.    Assignment to Pay Grade.** As a basis for pay equity the Division of Human Resources will use a combination of market data and point factoring to determine the relative value of each classification. (Ref. Rule 074.01 and Section 67-5309B, Idaho Code) (\_\_\_\_)

**043.    Salary Schedule.** The administrator shall adopt the salary ranges for the pay grades ~~in Section 67-5309C, Idaho Code, in a public meeting after notice, and a current salary schedule shall be made available to the public and all appointing authorities. (3-16-04)(\_\_\_\_)~~

**04.    Review and Reconsideration Requests.** If an agency or individual believes the pay grade assignment is improper regarding the accuracy of Hay point valuation or market average job matching, a request for review must be submitted to DHR prior to appeal. DHR staff will work to verify or change the assignment as the analysis indicates and respond within thirty (30) days. (\_\_\_\_)

**05.    ~~Compensation Plan.~~** ~~Significant changes to components of the compensation plan shall be presented in a public meeting after notice.~~ **Disputed Assignment Cannot Be Resolved.** If the disputed assignment cannot be resolved, individuals may appeal the decision to the Idaho Personnel Commission within thirty-five (35) days of the DHR final decision. (3-30-01)(\_\_\_\_)

#### **071.    ~~COMPENSATION PLAN REVIEWS~~ MERIT INCREASE MATRIX.**

**01.    ~~Review of Compensation Schedule.~~** ~~The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan.~~ **Salary Increases.** Salary increases must be based on a merit increase matrix approved by DHR. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions and recruitment and retention awards are not subject to a matrix. (3-30-01)(\_\_\_\_)

**02.    ~~Affirmation of Factoring.~~** ~~In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct.~~ **Temporary Merit Increases.** Temporary merit increases shall be based on performance and distributed using a matrix model unless an exception has been granted pursuant to Subsection 071.03 (7-1-93)(\_\_\_\_)

**03.    Exceptions to Use of a Matrix.** Such as equity adjustments, can be made on a case-by-case basis, subject to the approval of the administrator. (\_\_\_\_)

#### **072.    OPERATION OF COMPENSATION PLAN.**

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**01. Authorized Pay Rate.** No employee in the state classified service shall be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification, except ~~as provided in Section 67-5309C(b)(i), Idaho Code~~ for employees who have performance evaluations indicating their work does not achieve standards at the time of a paygrade structure revision. Such employees may not be paid outside the pay grade for more than one thousand forty (1040) hours of credited state service. (3-16-04)( )

~~**02. Starting Salary.** The starting salary for a new appointee may be anywhere within the paygrade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (Ref: Section 67-5309C(b), Idaho Code)~~ (3-16-04)

**032. Payline Exceptions.** Temporary assignments to a new pay grade may be made by the administrator pursuant to Section 67-5309(e)(b)(i)D, Idaho Code. Such assignments shall apply to an entire classification for the purpose of recruitment or retention and shall be reviewed annually to determine the need for continuance. (3-16-04)

~~**04. Salary After Reappointment From Layoff.** An employee appointed by the agency that laid them off (Rule 101.01 and Rule 146) shall be paid in the current pay grade for the classification to which reappointed or at the same payrate he or she received immediately preceding layoff, whichever is greater but not to exceed the maximum of the current paygrade.~~ (3-16-04)

**05. Salary upon Transfer.** (7-10-88)

~~**a.** A transfer between departments (Rule 125) in the same classification or one (1) of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority.~~ (3-16-04)

~~**b.** If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade.~~ (3-16-04)

~~**06. Salary upon Reinstatement.** Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges.~~ (3-16-04)

~~**07. Salary upon Downward Reassignment.** When a classification is reassigned downward the employee's salary will be protected to the maximum within the new paygrade.~~ (3-16-04)

**08. Salary upon Return from Military Duty.** An employee who returns to state service from active military duty in accordance with the provisions of Sections 65-511 or 65-512, Idaho Code, shall be paid at the comparable rate in the current pay grade for the classification to which he or she was assigned prior to leaving for military service. (3-30-01)

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### 073.    **CALCULATION OF PAY.**

**01.    Standard Calculation of Pay.** For other than police, correctional officers, or fire employees, pay shall be calculated in the following order: (3-30-01)

- a.    Holiday pay; (12-10-90)
- b.    All hours worked on a holiday as overtime; (12-10-90)
- c.    All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work and traded time; (12-10-90)
- d.    Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e.    All remaining hours worked at the employee's regular rate of pay, ~~with the optional use of earned administrative leave~~. Shift differential pay shall be calculated according to Rule 075 and paid in addition to any other compensation. (Ref. Sections 67-5302(1920), 67-53298, Idaho Code; Rules 010.34, 010.41, 010.42, 010.48, 010.50, and 073.03) ~~(3-16-04)( )~~

**02.    Calculation of Pay for Police, Correctional Officers, and Fire Employees.** Police, Correctional Officers, and fire employees on a twenty-eight (28) day work schedule shall be compensated as described above, except that overtime shall be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek, and earned administrative leave shall be calculated based on eighty (80) hours in a biweekly pay period instead of on a weekly basis. (3-30-01)

### **03.    Holiday Pay Calculation.** (7-1-87)

a.    ~~All classified employees of like classification, shall be treated equally with reference to hours of employment, holidays, and vacation leave. (Ref. Section 67-5326, Idaho Code)~~ Paid time off for holidays is a benefit, and as such, must be allocated in a substantially similar manner to all employees in the same classification. ~~(3-30-01)( )~~

b.    A full-time employee shall receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee shall receive eight (8) hours of holiday pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-16-04)

c.    A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)

d.    If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)

e.    Schedules resulting in holiday time off in excess of eight (8) hours ~~must only may~~



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be approved ~~in such a way as to treat all members of the affected job classification equally~~ by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or may grant administrative leave or otherwise adjust work schedules to ensure equity internal consistency. (3-30-01)( )

~~**04.    Reduction of Salary.** The salary of an employee receiving more than the lowest rate of the pay grade for his or her classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (3-16-04)~~

~~**05.    Temporary Merit Increases.** Temporary merit increases shall not be calculated retroactively. (Ref. Section 67-5309C(b)(ii), Idaho Code) (7-10-88)~~

~~**06.    Department Salary Administration Policies (a/k/a Compensation Plans).** Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)~~

~~**a.**    Merit increases and bonuses (Section 67-5309C(b), Idaho Code, and Rule 073.05.); (7-1-94)~~

~~**b.**    Reclassification (Rule 067); (4-5-85)~~

~~**b.**    Demotions (Rule 179); (3-16-04)~~

~~**d.**    Intradepartmental transfers (Rule 125); (3-16-04)~~

~~**e.**    Failure to complete promotional probationary periods (Rule 150.); (3-16-04)~~

~~**f.**    Promotions (Rule 169); (3-16-04)~~

~~**g.**    On-call time (Rule 010.49). (3-16-04)~~

~~**07.    Salaries for Temporary Appointments.** Except as provided by the following rule, salaries for employees hired under temporary and project exempt appointments will be governed by Section 59-1603, Idaho Code. (4-5-85)~~

#### **074.    ASSIGNMENT OF HAY EVALUATION POINTS.**

~~**01.    Assignment to Pay Grade.** Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-16-04)~~

~~**041.    Factoring Process.** Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (3-16-04)( )~~

~~**a.**    Informal Agreement. The appointing authority presents the new or revised classification and factoring recommendation informally to the administrator of the Division of~~

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~~Human Resources or designee and there is agreement on the points assigned.~~ (3-16-04)

~~**b.**    Factoring Session.~~ ~~The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.~~ (3-16-04)

~~**e.**    Hay Management Consultants.~~ ~~After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis.~~ (3-16-04)

~~**02.**    Guide Charts.~~ ~~The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts.~~ (3-16-04)

~~**03.**    Factoring Benchmarks.~~ ~~The factoring benchmarks correlated by Hay Management Consultants shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification.~~ (3-16-04)

**052.    Approval.** After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-16-04)

#### **075.    SHIFT DIFFERENTIAL.**

Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. Ref. Section 67-5309(u), Idaho Code) (\_\_\_\_)

~~**01.**    Eligibility.~~ (12-10-90)

~~**a.**    Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked.~~ (12-10-90)

~~**b.**    Shift differential compensation shall be paid for all hours worked by an employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and/or swing.~~ (3-16-04)

~~**02.**    Shift Pay Rate.~~ ~~Shift differential compensation shall be paid at the rate of five percent (5%).~~ (7-1-94)

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~~03. **Hours Paid at Shift Rate.** If an employee qualifies for shift differential pay during a workweek, the shift rate shall be calculated for all hours reported in that week, including holiday pay, overtime and leave taken. The resulting amount of shift differential pay shall be included in the compensation for that pay period.~~ (12-10-90)

~~04. **Ineligible Employees.** Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for shift differential compensation. (Ref. Section 67-5329(1), Idaho Code)~~ (3-30-01)

~~05. **Multiple Positions.** For an employee who has more than one (1) position, eligibility for shift differential shall be determined by position.~~ (2-6-92)

~~076. **ALTERNATIVE WORK SCHEDULES AND LOCATIONS.**~~

~~An appointing authority may allow alternative work schedules and locations including flexible schedules, job sharing, and telecommuting when determined to be in the best interests of the state and the employee. Internal policies on such options must be published for all employees and filed with the administrator. If applicable, agency policies must address:~~ (3-16-04)

~~a. Conditions of participation;~~ (3-16-04)

~~b. Equipment use and provision;~~ (3-16-04)

~~c. Workers compensation and liability issues; and~~ (3-16-04)

~~d. Confidentiality.~~ (3-16-04)

~~077. **BONUSES.**~~

~~01. **Performance Bonuses.** Up to a total of one thousand dollars (\$1,000) may be awarded each fiscal year, in recognition of excellent performance. A memo documenting such performance should be provided to the employee and placed in their personnel file. (Ref. Section 67-5309C(b)(iii), Idaho Code)~~ (3-16-04)

~~02. **State Resource Savings Bonuses.** Up to a total of one thousand dollars (\$1,000) may also be awarded each fiscal year, in recognition of an employee's idea to save state resources. Each agency will develop an internal procedure to provide for prompt consideration and distribution of awards. (Ref. Section 67-5309C(b)(iv), Idaho Code)~~ (3-16-04)

~~a. Suggestions, that when implemented result in significant savings, may result in a larger bonus, but such amounts must be approved by the Board of Examiners.~~ (3-16-04)

~~b. Suggestions aimed at saving money outside the employee's state agency should be submitted to the employee's agency first and then routed to the Division of Human Resources for centralized coordination and tracking. The Division of Human Resources will forward the suggestion to the agency able to address implementation.~~ (3-16-04)

~~0786. -- 079. (RESERVED).~~

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### **080. RECRUITMENT.**

The administrator shall cooperate with the appointing authority of each department and with the director of the Department of ~~Commerce and~~ Labor in the operation of a coordinated recruiting program. (4-5-85)( )

### **~~081. PURPOSE OF EXAMINATIONS.~~**

~~The administrator shall conduct examinations for the purpose of maintaining eligibility registers.~~ (8-1-81)

### **~~082. METHODS OF RECRUITMENT.~~**

~~For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, department promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies.~~ (3-16-04)

### **0831. ~~(RESERVED)~~ MOVING EXPENSES REIMBURSEMENT.**

The head of any department, office, or institution shall have authority to reimburse moving expense for current or newly hired state employees up to ten percent (10%) of the employee's base salary or fifteen thousand dollars (\$15,000) whichever is less. Reimbursable expenses must be in compliance with the State Moving Policy in effect at the time of the move. (Ref. SCO website, State Board of Examiners.) ( )

**01. Exceptions to the Maximum Expense Reimbursement Limits.** Exceptions to the maximum expense reimbursement limits may be approved in advance by the department director. ( )

**02. Report Submission to Division of Financial Management.** Agencies shall submit a report to the Division of Financial Management and the Legislative Services Office by October 1 on all moving expense reimbursements granted in the preceding fiscal year. (Ref. Section 67-5337, Idaho Code.) ( )

### **0842. ANNOUNCEMENT OF RECRUITMENT.**

**01. Distribution of Announcements.** The announcement of each open-competitive recruitment shall be supplied to the appropriate local offices of the Idaho Department of ~~Commerce and~~ Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open-competitive recruitment has been requested by the appointing authority in lieu of a promotional recruitment, it shall be his or her responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that department prior to its expiration date. (Ref. Rule 169) (3-16-04)( )

**02. Posting of Promotional Announcements.** The announcement for each promotional recruitment shall be supplied to the appointing authority of each affected department. It shall be his or her responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the department prior to the expiration date. (3-16-04)

### **0853. CONTENT OF ANNOUNCEMENTS.**

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Each announcement shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of examination, qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (3-16-04)

#### **0864. APPLICATIONS.**

**01. Form.** All applications shall be filed in the form ~~prescribed~~ approved by the administrator or delegate. (3-16-04)(\_\_\_\_)

**02. Filing of Applications.** Applications are currently accepted by internet application system, mail, personal delivery, electronic mail and FAX to the Division of Human Resources or delegate. An application will also be considered timely if any Job Service or agency human resources office receives and date stamps it by the closing date, notifies the Division of Human Resources or delegate, and ensures that it is delivered to the Division of Human Resources or delegate by close of the next business day. (3-16-04)(\_\_\_\_)

**03. Application by Military Personnel.** An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing service-connected hospitalization ~~of no more than~~ up to one (1) year following discharge, during any period in which the announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of an examination. ~~The applicant must be a resident of Idaho when application is made.~~ (Ref. Sections 65-5023 and 67-5309(f), Idaho Code) (3-16-04)(\_\_\_\_)

**04. Application by Disabled Veterans.** A disabled veteran may file an application at any time up until a selection has been made for any classification for which the Division of Human Resources or delegate maintains a register as a source for future job openings or for which a register is about to be established, provided he or she has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a classification competitive position in the same ~~or higher~~ pay grade as the classification for which application is made. ~~The applicant must be a resident of Idaho when application is made.~~ (Ref. Sections 65-5023, ~~65-507~~ and 67-5309(f), Idaho Code) (3-16-04)(\_\_\_\_)

~~**05. Promotion of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity and be placed on a register but may not be appointed until permanent status has been attained. (Ref. Rules 159.01. and 169.03.)~~ (3-16-04)

~~**06. Disclosure of Information for Hiring Purposes.** By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 9-340C, Idaho Code).~~ (12-10-90)

#### **0875. DENIAL OF APPLICATIONS.**

**01. Basis.** The administrator or delegate may choose not to process an application if: (3-16-04)(\_\_\_\_)

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a. The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

b. The application was not received on or before the closing date for acceptance of applications. (3-30-01)

c. A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (3-30-01)

**02. Further Actions.** When any such finding under Rule 087.01 is made, the administrator or delegate may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the administrator or delegate may take appropriate action to have the employee removed from the position. (~~3-30-01~~)(\_\_\_\_)

~~0886. -- 089.~~ (RESERVED).

~~**089. LOCATION OF EXAMINATIONS.**~~

~~To enhance recruiting efforts, agencies may request examinations be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications.~~  
(~~3-16-04~~)

### (BREAK IN CONTINUITY OF SECTIONS)

~~**091. PROHIBITED FACTORS.**~~

~~No part of any examination shall include any question designed to reveal prohibited information including the political or religious affiliation or belief, national origin or race of any candidate.~~  
(~~3-30-01~~)

**0921. PREPARATION OF EXAMINATIONS.**

**01. Content of Examinations.** Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. So far as is practical, promotional examinations shall be similar to corresponding open-competitive examinations and the same standards shall be applied in determining scores. (3-30-01)

**02. Job Analysis and Confidentiality.** Contents of each examination shall be determined by the Division of Human Resources' ~~staff~~ or delegate on the basis of appropriate professional techniques and procedures of job analysis and test development. No information concerning the specific content of the examination shall be divulged to unauthorized personnel by Division of Human Resources' ~~staff~~ or delegate or other personnel who have access to the examinations. (~~4-5-85~~)(\_\_\_\_)

**03. Subject-Matter Experts.** The Division of Human Resources' ~~staff~~ or delegate

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may, at their discretion, collaborate with appointing authorities, incumbents, subject-matter experts, or other qualified persons in the preparation of examinations. ~~(8-1-81)~~(\_\_\_\_)

#### **0932. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.**

**01. Designation of Examiners.** The examinations shall be conducted and rated by persons designated by the administrator or delegate. ~~(8-1-81)~~(\_\_\_\_)

**02. Scoring of Examinations.** Each examination shall be rated for final scores on the basis of one hundred (100) point maximum. The Division of Human Resources' ~~staff~~ or delegate shall use appropriate statistical and professional techniques and procedures in determining passing points and final scores. ~~(3-30-01)~~(\_\_\_\_)

**03. Veterans Preference.** (3-16-04)

**a.** ~~War~~ Veterans and disabled veterans points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. ~~Veterans preference points are only applicable when the applicant is a resident of Idaho.~~ Five (5) percentage points shall be added to the earned rating of any veteran as defined in Section 65-502, Idaho Code, and the widow or widower of any veteran as defined in Section 65-502, Idaho Code, as long as he or she remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points shall be added to the earned rating of any disabled veteran as defined in Section 65-502, Idaho Code, the widow or widower of the same as long as he or she remains unmarried, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers shall be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system shall be placed on the register in accordance with their augmented rating. (Ref. Sections 65-5064 and 67-5309(f), Idaho Code) ~~(3-16-04)~~(\_\_\_\_)

**b.** ~~War~~ Veterans and disabled veterans preference points shall not be added to the raw score in order to achieve a passing score. ~~(3-16-04)~~(\_\_\_\_)

**04. Failing Score.** Failure in any part of the examination may disqualify the applicant in the entire examination and from having his or her name placed on the register. Final scores shall be computed in accordance with weights assigned the individual factors in the total examination. (4-5-85)

**05. Use of Alternate Announcement.** An examination may be rated for another classification under current announcement at the discretion of the administrator. (3-16-04)

**06. Waiver of Examination.** Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator or delegate. These applicants shall be eligible for appointment and their placement on the register shall take into account veterans' preference. When using registers developed in this manner, appointing authorities shall provide the opportunity for placement

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interviews for each applicant on the register. (3-16-04)(\_\_\_\_)

~~**07. Examination Upon Reclassification.** An employee occupying a position which is reclassified (Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (3-16-04)~~

~~**094. ELIMINATION TESTS.**~~

~~Wherever it is stated in the announcement that an applicant must qualify in a series of different tests or satisfy other requirements to become eligible for appointment, and the applicant fails to meet such requirements, he or she shall not be permitted to take any further tests in the examination, and such tests if previously given need not be rated. (4-5-85)~~

~~**095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.**~~

~~All competitors shall be notified of their final scores electronically or by mail. The records of scores shall be held as official records for the life of the resulting eligibility registers. (3-16-04)~~

**0963. REVIEW AND APPEAL.**

~~**01. Review of Examination Content and Scoring Material.** Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division of Human Resources in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review shall be limited to the time allowed for appeal of examination scores. (3-16-04)~~

~~**02. Appeal of Examination Score.** Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was sent to such competitor. The administrator shall review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment shall include their scores. The administrator shall provide a written explanation to competitors whose scores are affected by the action taken. (3-16-04)(\_\_\_\_)~~

**0974. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.**

**01. Conditions for Eligibility.** Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following: (3-16-04)

**a.** That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law; (3-30-01)

**b.** That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3-16-04)



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c. That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.) (3-16-04)

**02. Concurrence Required.** The certification shall be made with the concurrence of Division of Human Resources. (3-30-01)

**03. Probationary Period.** The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150). (7-1-93)

**0985. -- 099. (RESERVED).**

### **100. ELIGIBILITY REGISTERS.**

Eligibility registers shall be established by the Division of Human Resources' ~~staff~~ or delegate to provide for fair and impartial selection for entrance into the state classified service and for promotion on the basis of competitive merit examinations. (~~4-5-85~~)(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

### **102. PLACEMENT ON REGISTER.**

**01. Score Order.** Eligible candidates shall be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (3-16-04)

**02. Veterans' Preference.** Eligible veterans or surviving spouses entitled to five (5) point preference shall be placed on the open-competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03, and Section 65-506~~4~~, Idaho Code) (~~3-16-04~~)(\_\_\_\_)

**03. Disabled Veterans' Preference.** Eligible ten percent (10%) or more disabled veterans or purple heart recipients or surviving spouses entitled to ten (10) point preference shall be placed ~~at the top of~~ on the open-competitive register ~~above all other non-preference candidates~~ in order of their final score on the examination augmented by preference points. Veterans who have a current service-connected disability of thirty percent (30%) or more, shall be offered an interview when their final score on the hiring list places them within the top ten (10) qualified candidates. If more than ten (10) thirty percent (30%) or greater disabled veterans place in the top ten (10) qualified scores of a hiring list, at least ten (10) shall be offered an interview. (Ref. Rule 093.03 and Section 65-506, Idaho Code) (~~3-16-04~~)(\_\_\_\_)

**04. Veterans' Preference Points for Initial Appointment Only.** The additional points added by reason of veterans' preference shall be used the first time a qualified veteran is hired by any state agency and not for the purpose of promotions. (Ref. Section 65-506~~4~~, Idaho Code) (~~3-16-04~~)(\_\_\_\_)

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### (BREAK IN CONTINUITY OF SECTIONS)

#### 103. DURATION OF ELIGIBILITY REGISTERS.

**01. Reemployment Preference Registers.** Eligible candidates will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-16-04)

**02. Other Registers.** The duration of all other registers will be determined by the administrator or delegate based on the frequency of job openings and agency need. ~~(3-16-04)~~(\_\_\_\_)

#### 104. REMOVAL OF NAMES.

**01. Reasons Specified.** Names may be removed from any eligibility register(s) by the administrator or delegate because of: ~~(3-16-04)~~(\_\_\_\_)

**a.** Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. (3-16-04)

**b.** A statement by the eligible candidate that he or she is not willing to accept appointment under conditions previously specified. (3-16-04)

**c.** Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. (3-16-04)

**d.** Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. (3-16-04)

**e.** The eligible candidate's conduct renders him or her unsuitable for the position or classification for which he or she applied. (3-16-04)

**f.** Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator or delegate. ~~(3-30-01)~~(\_\_\_\_)

**g.** Conviction of an eligible candidate of any felony. (3-30-01)

**h.** False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-30-01)

**i.** Dismissal of an eligible candidate from state service. (3-30-01)

**j.** Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (3-16-04)

**k.** Directly or indirectly obtaining information regarding examinations to which, as

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an applicant, he or she is not entitled. (3-16-04)

**l.** Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (3-16-04)

**m.** Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same department and not been accepted for employment for good cause. (3-16-04)

**n.** Declining three (3) separate offers of employment or reemployment without good cause. (3-16-04)

**02. Limitations and Duration of Removal.** The administrator or delegate shall determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator or delegate. (3-16-04)( )

**~~105. TEMPORARY UNAVAILABILITY NOT REASON FOR REMOVAL.~~**

~~Temporary unavailability of an eligible applicant, not to exceed fifteen (15) calendar days, in order that the employee may give his or her employer advance notice of separation is not proper cause for his or her removal from the register.~~ (3-30-01)

**1065. RESTORATION OF NAMES TO ELIGIBILITY REGISTERS.**

Upon receiving appropriate evidence, the administrator or delegate shall restore the name of an eligible candidate to any eligibility register from which it has been removed for causes enumerated in Rule 104. (3-30-01)( )

**1076. REVISION OF CLASSIFICATION SPECIFICATIONS.**

Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (3-16-04)

**107. -- 108. (RESERVED).**

**109. CERTIFICATION AND SELECTION.**

Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' ~~staff or delegate~~. Non-promotional internal or external transfers or reinstatements do not require certified registers ~~certified by the Division of Human Resources~~. (3-16-04)( )

**110. NUMBER OF NAMES ON REGISTER.**

The Division of Human Resources' ~~staff or delegate~~ shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ten (10) eligible candidates successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing

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authority shall have ten (10) names to consider for each vacancy. The names of all eligible candidates with scores identical to the tenth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. (3-16-04)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **112. SELECTIVE CERTIFICATION.**

The administrator or delegate may authorize selective certification from a register where specific qualifications for a position are justified by an appointing authority in addition to the minimum qualifications for the classification. (3-16-04)(\_\_\_\_)

#### **113. -- 118. (RESERVED).**

#### **119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**

~~**01. Form.** Appointing authorities shall notify the administrator of each appointment on the prescribed form.~~ (2-6-92)

**021. Reemployment Preference Register.** New appointments to a classification within a department are not permissible if there is a departmental reemployment preference register (Rule 101.01) for that classification with names of eligibles who are willing to accept employment. (3-16-04)

**032. Credited State Service.** Except as provided by Rules 040 and 250.02, no classified credited state service shall accrue to employees for any service under temporary, project exempt, or nonclassified appointments. (7-1-87)

~~**04. Probationary Period Required.** All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification shall be probationary appointments except as otherwise provided in Rules 040, and 150.~~ (3-16-04)

#### **053. Provisional Appointment.** (7-1-93)

**a.** A provisional appointment may be authorized in the absence of an adequate register. (Ref. Section 67-5309(k), Idaho Code) (3-16-04)(\_\_\_\_)

**b.** In nominating a person for provisional appointment, the appointing authority shall transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position shall not be permitted unless specifically authorized by the administrator. (3-16-04)

**c.** Provisional incumbents shall be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within

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certifiable range or who has an opportunity to take such an examination and has not done so shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-16-04)

### **120. LIMITED SERVICE APPOINTMENTS.**

**01. Designation.** Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (3-16-04)

**02. Permanent Status and Expedited Layoff.** Employees appointed under limited-service appointments have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.03.c. (3-16-04)

~~**03. Limited Service Agreement.** Appointing authorities making limited service appointments shall prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and/or updated agreements are required every two (2) years. A copy of the agreement shall be submitted to the administrator. (3-16-04)~~

### **(BREAK IN CONTINUITY OF SECTIONS)**

### **124. REINSTATEMENTS.**

**01. Eligibility.** As determined by the administrator or delegate, a current or former employee shall be eligible for reinstatement to a classification in which he or she held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.05). (3-16-04)(\_\_\_\_)

**a.** Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-30-01)

**b.** The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (3-16-04)

**c.** The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (3-16-04)

**02. Reinstatement Prohibited.** Reinstatement of a current or former employee is not permissible as long as there is a departmental register (Rule 101.01) for that classification with names of eligibles who have reemployment preference status. (3-16-04)

**03. Examination.** The administrator or delegate may require a current or former

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employee to pass an examination for the classification to which reinstatement is desired.

(3-16-04)( )

**04. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (Ref. Rules 124.05 and 145.01).

(3-16-04)

**05. Return from Military Duty.** An employee returning from military leave without pay (Rule 250.05) who is relieved or discharged from military duty under conditions other than dishonorable shall be, upon application, reinstated in his or her former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-508, 65-511 and 65-512, Idaho Code, and USERRA or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made *within ninety (90) calendar days after separation from military duty or from hospitalization continuing after discharge up to one (1) year* in accordance with the provisions of USERRA. Salary treatment is covered by Rule 072.08.

(3-30-01)( )

### 125. TRANSFERS.

**01. Authority to Transfer.** An appointing authority may transfer an employee at any time from one position to another in the same classification.

(3-16-04)

**02. Transfer Within Pay Grade.** An appointing authority may transfer an employee from a classification in which he or she holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications.

(3-16-04)

~~**03. Probationary Period.** An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intradepartmental transfers. (Ref. Rule 150)~~

(3-16-04)

~~**04. Limitation.** Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147.~~

(7-1-87)

~~**05. Transfer Between Departments.** An employee shall be eligible for transfer between departments in the same classification in which he or she holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave shall be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.04.~~

(3-16-04)

~~**06. Restriction.** Transfer of an employee between departments is not permissible as long as there is a departmental register with reemployment preference status (Rule 101.01) for the classification in the department to which transfer is desired with names of eligibles who are willing to accept reemployment.~~

(3-16-04)

~~**07. Examination.** The administrator may require an employee transferring between classifications to pass an examination for the classification to which transfer is desired.~~ (3-16-04)

**083. Involuntary Transfer.** Notice and an opportunity to be heard must be given to any

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employee subject to an involuntary transfer. (Ref. Rules 010.39 and 200.01.a.). (3-16-04)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 129. ACTING APPOINTMENT TO A POSITION.

**01. Conditions for Acting Appointment.** At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his or her own department in an acting capacity whenever: (3-16-04)

**a.** The incumbent of the position in the higher classification is on authorized leave of absence; or (3-16-04)

**b.** A vacancy exists and there is no departmental register with reemployment preference status (Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate departmental register for the classification. (3-16-04)

~~**02. Minimum Qualifications.** To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)~~

~~**03. Notification.** Appointing authorities shall notify the administrator of each acting appointment no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. (3-16-04)~~

**042. Effective Date.** The effective date of each acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-16-04)

#### 130. LIMITATION ON LENGTH OF APPOINTMENT.

Acting appointments shall be limited to the period of time necessary to fill the vacancy ~~pursuant to procedures prescribed in these rules~~ but ~~in no case~~ shall not continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. (3-16-04)(\_\_\_\_)

#### ~~131. SALARY.~~

~~For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. (3-16-04)~~

#### 1321. EXPIRATION OF APPOINTMENT.

~~**01. Return of Incumbent.** When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment shall expire.~~ The acting appointee shall be returned to the class, the pay grade and rate held immediately preceding the acting appointment. (3-16-04)(\_\_\_\_)

~~**02. Failure of Incumbent to Return.** Should the employee on leave of absence~~

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~~separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 130.~~ (3-16-04)

~~1332.~~ -- 139. (RESERVED).

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **141. CALCULATION OF RETENTION POINTS.**

There shall be an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified ~~war~~ veterans are given preference through additional retention points. (Ref. Rule 141.05), The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

<b>Overall Performance Level Documented As:</b>	<b>Retention Points Earned Per Hour of Credited State Service</b>
<del>Superior</del> <u>Exemplary</u> or equivalent	.100
<del>Very Good</del> <u>Solid Sustained</u> or equivalent	.075
<del>Satisfactory</del> <u>Achieves Performance Standards</u> or equivalent	.050
<del>Needs Improvement</del> <u>Does Not Achieve Performance Standards</u> or equivalent	.0
<del>Unsatisfactory</del>	-.0

(3-16-04)( )

**01. No Performance Evaluation on File for a Twelve-Month Period.** All credited state service for which there is no performance evaluation shall receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (3-16-04)

**a.** Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

**b.** Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)



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**02. Calculation of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.01. (3-16-04)

**03. Qualified ~~War~~ Veterans (~~War-Era~~) Preference.** ~~War~~ Veterans (~~War-Era~~) as defined in Chapter 5, Title 65, Idaho Code, shall receive preference by the addition of retention points equivalent to three (3) years of satisfactory service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) (~~3-16-04~~)( )

**04. Calculation Date Cutoff.** No points shall be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

**05. Audit of Retention Points.** Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (7-1-87)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

##### **01. Priority for Reemployment by Agency That Conducted the Layoff.** (3-16-04)

**a.** The employee who has been laid off, or ~~officially notified~~ given official written notice of a pending layoff date (Ref. Rule 143.05) shall be offered reemployment to a position in the classification from which laid off or layoff is pending, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that department or agency. Appointing authorities may reassign or transfer individuals who are in the same classification within their department but may not demote, promote, reclassify, or make acting appointments to that classification. If that department determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (~~3-16-04~~)( )

**b.** When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. (3-16-04)

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c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. (3-16-04)

**02. Consideration for Hire by Other Agencies.** For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-16-04)

**03. Employment by Other Agency.** Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. (3-16-04)

**04. Return to Register.** If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he or she may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. (3-16-04)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **150. PROBATIONARY PERIODS.**

**01. Probationary Period Required.** Except as provided in Rule 040, every appointment and promotion to a classified position shall be probationary, or in the absence of adequate registers, provisional. (7-1-87)

**02. Types of Probationary Periods.** The probationary period serves as a working test period to provide the department an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (3-30-01)

a. Entrance probation is the probationary service required of an employee at the time of his or her original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours. (3-30-01)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours. (3-30-01)

c. Voluntary probation is ~~the probationary period negotiated~~ an agreement between

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~~the employees seeking and the hiring authority for inter-agency employment actions such as reinstatement, transfer, and/or voluntary demotion, and/or reinstatement and the hiring authority. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. Voluntary probation agreements must be approved by the administrator and kept on file with the Division for the duration of the probationary period.~~  
(3-16-04)( )

**03.    Extension of Probationary Period.** ~~Upon petition by a~~ An appointing authority that demonstrates good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Petitions must be received by the administrator before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code)  
(3-16-04)( )

**04.    Interruption of Probationary Period.** The probationary period in any classification must be completed within a single department uninterrupted by resignation, termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion.  
(3-16-04)

**05.    Acting and Temporary Service Credit.** Temporary and acting appointment service time in a given classification may be used toward fulfilling the entrance probationary requirements in that classification as established in Section 67-5309(j), Idaho Code. The temporary or acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code and Rules 122, 129, 150.01(a)). ( )

### **151.    SATISFACTORY SERVICE.**

When a probationary employee has satisfactorily served the probationary period, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating satisfactory performance and shall certify the employee to permanent status. ~~Such~~ Certification to permanent status shall be effective one thousand forty (1,040) hours of credited state service after appointment, except that it shall be effective two thousand eighty (2080) hours of credited state service after appointment for peace officer classifications unless either period has been extended pursuant to Rule 150.03. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04)  
(3-30-01)( )

### **152.    SEPARATION DURING PROBATION.**

~~01.    Notification.~~ If a probationary employee does not serve satisfactorily, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation ~~indicating unsatisfactory performance.~~ (Ref. Section 67-5309(j), Idaho Code and Rule 210.04)  
(3-16-04)

~~02.    During Entrance and Voluntary Probation.~~ (3-30-01)

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~~a.~~    An employee who does not serve satisfactorily during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04)  
(3-16-04)(\_\_\_\_)

~~b.~~    ~~Notice to the employee of termination for unsatisfactory service shall be made not later than fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances.~~  
(7-1-87)

### (BREAK IN CONTINUITY OF SECTIONS)3

#### 154.    **FAILURE TO PROVIDE PERFORMANCE EVALUATION.**

If the appointing authority fails to provide a performance evaluation as required in Rule 151, the employee shall be considered to have satisfactorily completed the probationary period and shall be certified to permanent status as provided by Rule 151, unless the probationary period has been extended by the administrator or delegate. (Ref. Rule 150.03)    (3-16-04)(\_\_\_\_)

~~155. -- 158.    (RESERVED).~~

~~159.    **STATUS AND TENURE.**~~

~~01.    **Probationary Promotions.** Employees serving a promotional probationary period shall have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. (Ref. Rules 151, 152.03, and 153)~~  
(3-16-04)

~~02.    **Tenure of Employment.** All employment in the state classified service shall be without definite term except where the term may be specified by law, or under conditions of a limited service appointment. (Ref. Rule 120)~~  
(3-16-04)

~~160~~55. -- 168. (RESERVED).

#### 169.    **PROMOTIONS.**

**01.    Use of Promotional Registers.**    (7-1-93)

**a.**    Preference for Promotion. Whenever practical, a vacancy in a classified position shall be filled by the promotion of an employee in the department in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code)    (3-30-01)

**b.**    Exception. An appointing authority may request that a position be filled from a statewide promotional register (Rule 101.03) or an open-competitive register (Rule 101.04) whenever he or she determines that such an appointment will best serve the interests of the department.    (3-16-04)

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c. Departmental Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is a departmental register with reemployment preference status (Rule 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (3-16-04)

**02. Interdepartmental Promotions.** All interdepartmental promotions shall be made using statewide promotional registers (Rule 101.03) (7-1-87)

**03. Eligibility for Promotion.** Promotional appointees must have permanent status (~~ref. Rule 159~~) and must meet the minimum qualifications of the promotional classification. (3-16-04)(\_\_\_\_)

**170. -- 1789. (RESERVED).**

**~~179. DEMOTIONS.~~**

~~Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. (3-16-04)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~182. DISCIPLINARY DEMOTION.~~**

~~An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 which are not sufficiently severe to warrant dismissal. (7-1-87)~~

**1832. -- 189. (RESERVED).**

**190. DISCIPLINARY ACTIONS.**

**01. Cause for Disciplinary Actions or Separation from State Service.** Dismissal, suspension, demotion, or reduction in pay, may occur for any of the following causes during the employee's employment: (3-16-04)

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the Division of Human Resources and Idaho Personnel Commission. (3-16-04)

b. Inefficiency, incompetency, or negligence in performing duties or job performance that fails to meet established performance standards. (4-5-85)(\_\_\_\_)

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (Ref. Rule 010.56) (3-16-04)

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

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- e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department. (4-5-85)
- f. Intoxication on duty. (4-5-85)
- g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)
- h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)
- i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)
- j. Acceptance of gifts in exchange for influence or favors given in ~~an~~ the employee's official capacity. ~~(4-5-85)~~ ( )
- k. Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)
- l. Habitual improper use of sick leave. (4-5-85)
- m. Unauthorized disclosure of confidential information from official records. (4-5-85)
- n. Absence without leave. (4-5-85)
- o. Misstatement or deception in application for employment. (4-5-85)
- p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)
- q. Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

**02. Suspension for Investigation.** An appointing authority may suspend with pay an employee for investigation of disciplinary causes enumerated above. Each suspension for investigation shall be superseded by reinstatement to duty, dismissal or disciplinary suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (3-30-01)

**03. Disciplinary Suspension.** An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status shall be subject to appeal by the employee to the Commission. (3-16-04)

**04. Suspension on Felony Charges.** An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full

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reinstatement of all benefits and salary that the employee would have otherwise been entitled shall be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (7-1-87)

**05. Notice to Administrator.** Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he or she shall notify the employee and the administrator concurrently in writing; and shall set forth the specific rule(s) violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority shall notify the administrator as soon as practical. (7-1-87)

### (BREAK IN CONTINUITY OF SECTIONS)

#### ~~203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.~~

~~When the Division of Human Resources receives a complaint from a federal agency alleging violation of employment laws, the administrator shall take prompt action to investigate. If the complaint is department specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (3-16-04)~~

#### ~~2043. -- 209. (RESERVED).~~

#### **210. PERFORMANCE EVALUATIONS.**

**01. Performance Evaluations.** Each department shall adopt and maintain a system of employee performance evaluations provided it meets the basic objectives of the state's performance evaluation system as approved by the administrator. (3-30-01)

**02. Approval of Form.** The Division of Human Resources' staff shall make available a standard format for this purpose. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved by the administrator. (3-16-04)

~~**03. Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the evaluation contents. (3-16-04)~~

**043. Use of Evaluations.** Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases and bonuses (Ref. Section 67-5309C(b)B(d), Idaho Code); and for certifying a probationary employee to

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permanent status (Ref. Rule 151). ~~Other uses of performance evaluations are optional with the appointing authority.~~ (3-30-01)(\_\_\_\_)

**054. Evaluation Schedule.** All classified employees shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter. (Ref. Section 67-5309~~C(b)(ii)(h)(j)~~, Idaho Code.) Part time employees shall be evaluated on an annual basis. (3-30-01)(\_\_\_\_)

**065. Retention of Evaluation.** A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished to the employee. ~~The performance rating shall be transmitted to the administrator. Agency records and supporting documentation are subject to review by the Division of Human Resources.~~ All performance evaluation documents shall be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (3-16-04)(\_\_\_\_)

~~**07. Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision.~~ (3-16-04)

**211. -- 219. (RESERVED).**

### **220. RECORDS.**

#### **01. Employee Service Records.** (7-1-93)

~~a.~~ For each employee in classified service, the Division of Human Resources' ~~staff~~ or delegate shall maintain a service record which shall include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(o), Idaho Code) (3-16-04)(\_\_\_\_)

~~b.~~ ~~Service records or a facsimile thereof for classified employees shall be maintained permanently by the administrator.~~ (3-30-01)

~~c.~~ ~~Any employee may at all reasonable times during business hours review his or her service record maintained in the Division of Human Resources or maintained in any department. Except for material used to screen and test for employment, all information maintained in an employee's service record shall be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code.~~ (3-30-01)

**02. Administrative Records.** The administrator shall permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (3-16-04)

~~**03. Employee Personnel Action Documents.** The appointing authority shall furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations.~~ (3-30-01)



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**043. Transfers, Reemployment and Promotions Between Departments.** When an employee seeks a transfer, reemployment, or promotion between departments or agencies, the appointing authority of the hiring department or agency, or designee, shall be entitled to examine the employee's service record and current agencies performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (3-16-04)

**221. -- 229. (RESERVED).**

**230. VACATION LEAVE.**

~~**01. Eligibility.** All classified employees regardless of status or whether full-time or part-time shall earn vacation leave and be eligible to take and be paid for unused vacation leave in accordance with Sections 67-5334, 67-5335, and 67-5337, Idaho Code.~~ (7-1-87)

~~**02. Rate of Accrual.** All credited state service (ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions) shall be counted in determining leave accrual rate.~~ (4-5-85)

**031. Mutual Agreement.** Vacation leave requested by the employee may be used only when approved by the department. The employee and the department shall mutually agree upon such time or times when vacation leave will least interfere with the efficient operation of the department taking into consideration the vacation preference of the employee. (7-1-87)

**042. Interdepartmental Transfer.** An employee who is transferred from one (1) state department to another department shall be credited with accrued vacation leave by the receiving department at the time of transfer. (3-30-01)

**231. -- 239. (RESERVED).**

**240. SICK LEAVE.**

~~**01. Eligibility.** Sick leave shall be earned in accordance with Section 67-5333, Idaho Code. Sick leave shall only be taken in pay periods subsequent to being earned.~~ (3-30-01)

~~**021. Interdepartmental Transfer.** An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer.~~ (3-30-01)

**032. Reasons for Use.** Sick leave shall only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, legal guardian, or the same relation by marriage. (3-16-04)( )

~~**04. Medical, Dental, or Optical Appointments Leave (MDA).** Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family member medical, dental or optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic.~~

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~~Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. (Ref. Rule 250.13) (3-16-04)~~

~~**05.    Serious Medical Conditions.** Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule 242) (3-30-01)~~

~~**06.    Notification.** It is the responsibility of the employee to notify his or her supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (4-5-85)~~

~~**073.    Donated Leave.** Vacation leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5335(7)4, Idaho Code. Such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. (3-16-04)(\_\_\_\_)~~

~~**084.    Sick Leave Abuse.** A predictable and reliable level of attendance is an essential function of almost all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Rule 190 and Section 67-5333, Idaho Code) (3-16-04)~~

#### **241.    WORKERS COMPENSATION AND DISABILITY.**

**01.    Use of Leave in a Workers Compensation Claim.** In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

**02.    Layoff After Six Months' Disability.** If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after ~~six (6) months'~~ twelve (12) weeks' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant unless prohibited by state or federal law or extended by the administrator. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (3-30-01)(\_\_\_\_)

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a. If an employee is not FMLA eligible, the employee may only take twelve (12) weeks' absence for disability every twelve (12) months. The employee's name shall be certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (3-16-04)(\_\_\_\_)

b. Conditional releases will be considered in accordance with the Americans with Disabilities Act. (3-16-04)

### **~~242. FAMILY AND MEDICAL LEAVE.~~**

~~01. **Applicability.** The provisions of the federal Family and Medical Leave Act (FMLA) shall apply without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy five (75) mile area, and without the limitation on reinstatement of the highest paid employees. (Ref. 29 U.S.C. 2601 et seq.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies. (3-16-04)~~

~~02. **Return to Work Release.** An appointing authority may request a return to work release if, due to the nature of the health condition and the job: (3-30-01)~~

~~a. Light or limited duty work or other accommodation is requested; or (3-16-04)~~

~~b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others. (7-1-94)~~

### **~~243. MATERNITY AND PATERNITY LEAVE.~~**

~~01. **Use of Sick Leave.** Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (3-16-04)~~

~~02. **Determination of Disability Period.** The employee's physician shall be considered the primary authority in determining the disability period insofar as compensable sick leave is concerned. (3-16-04)~~

~~03. **Additional Time Off.** Maternity and paternity leave preceding and following the time that the person is disabled shall be leave without pay unless the employee elects to use accrued vacation leave, earned administrative leave or compensatory time off for overtime. (3-16-04)~~

~~04. **Discrimination Prohibited.** Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)~~

~~05. **Adoption and Foster Care.** Leave will be granted for adoption and foster care as~~

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*set forth in the Family and Medical Leave Act. (Ref. Rule 242)*

*(3-30-01)*

### **2442. SEPARATION UPON FAILURE TO RETURN TO WORK.**

Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having voluntarily separated. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 124. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-16-04)

### **2453. -- 249. (RESERVED).**

### **250. SPECIAL LEAVES.**

#### **01. Leave of Absence Without Pay.**

(7-1-93)

**a.** Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of time when such leave would not have an adverse effect upon the department. The request for leave must be in writing and must establish reasonable justification for approval. (3-16-04)

~~**b.** Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)~~

~~**eb.** Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-16-04)~~

~~**d.** Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he or she shall be paid for such accruals in accordance with Sections 67-5337 and 67-5329(3), Idaho Code. (7-1-87)~~

#### **02. Leave of Absence to Assume a Nonclassified Position.**

(7-1-93)

**a.** Approval. An appointing authority may approve a leave of absence from classified service to a classified employee to assume a nonclassified position. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service or ninety (90) days past the service of the appointing authority, whichever comes first. (Ref. Rule

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124.01.a.) (3-16-04)

~~**b.**    *Credited State Service.* An employee on leave of absence to assume a nonclassified position continues to accrue credited state service.~~ (3-16-04)

**b.**    Compensatory time will not accrue but can continue to be used if assuming an “executive” position. ( )

~~**03.**    **Leave Defaults.** When an employee does not have accrued sick leave to cover an entire absence the following leave types shall be used to the extent necessary to avoid leave without pay: accrued compensatory time; earned administrative leave; vacation. If abuse of sick leave is suspected see Rule 240.08.~~ (3-16-04)

**043.    Military Leave With Pay.** Employees who are members of the national guard or reservists in the armed forces of the United States ~~who are directed by proper military authority to participate in ordered and authorized field training under the National Defense Act shall receive military leave with pay for a maximum fifteen (15) working days in any one (1) calendar year~~ engaged in federal military duty ordered or authorized under the provisions of law, shall be entitled each calendar year to fifteen (15) days of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is ~~exclusive of separate from~~ vacation, ~~and~~ sick leave, ~~and~~ holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (4-5-85)( )

**054.    Military Leave Without Pay.** ( )

**a.**    An employee whose employment is reasonably expected to continue indefinitely, and who leaves his or her position either voluntarily or involuntarily ~~in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee shall either be separated from state service or placed in “inactive” status, at the option of the appointing authority.~~ (3-16-04)( )

**b.**    Health Insurance for National Guard or Reservist Deployment. All employees who are members of the national guard or reservists in the armed forces of the United States shall be entitled to their existing medical benefits for the first thirty (30) days of a deployment ordered or authorized under the provisions of the National Defense Act. Use of vacation, EAL or compensatory time leave shall not be required for an employee to receive this health insurance benefit. (Ref. Section 46-225, Idaho Code and USERRA). ( )

**065.    Administrative Leave with Pay.** At the discretion of the appointing authority, an employee may be granted administrative leave with pay when such leave is in the best interest of the department. (4-5-85)

~~**07.**    **Earned Administrative Leave.**~~ (7-1-93)

~~**a.**    *Authority for Use.* In any week that an employee would be compensated an amount greater than forty (40) hours times the employee’s regular rate of pay, an appointing authority may allow the employee to accumulate earned administrative leave to the extent necessary to reduce the cash compensation to forty (40) hours. An appointing authority may allow a part-time~~

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~~employee to accumulate earned administrative leave for the hours worked between the regularly-scheduled hours and forty (40) hours. Earned administrative leave shall be calculated based on one hundred sixty (160) hours for police, correctional officers, and fire employees pursuant to Rule 073.02.~~ (3-30-01)

~~**b.**    *Ineligible Employees.* Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for earned administrative leave. (Ref. Section 67-5329(1), Idaho Code).~~ (12-10-90)

~~**c.**    *Payment and Credited State Service.* Earned administrative leave (EAL) balances shall be paid upon transfer or separation. Hours of EAL shall accrue credited state service when worked.~~ (3-30-01)

#### **086.    Court and Jury Services and Problem-Solving and Due Process Leave.** (7-1-98)

**a.**    Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he or she shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by his or her respective department in accordance with department travel regulations. (3-16-04)

**b.**    Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. The employee may use accrued leave or leave without pay. (3-30-01)

**c.**    Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he or she shall be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (7-1-87)

~~**d.**    *Problem-solving and due process procedures.* Any employee who has been requested to serve as a mediator as provided by a departmental problem-solving or due process procedure or to appear as a witness or representative during such a proceeding shall be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties.~~ (7-1-98)

~~**e.**    *Notification.* An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative shall notify his or her supervisor as soon as possible to obtain authorization for leave of absence.~~ (7-1-87)

~~**09.    *Election Leave.* When requested by an employee, an appointing authority shall grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in primary, general, municipal, school, or special elections in those instances where the employee's work would interfere with his or her being able to vote.**~~ (4-5-85)

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~~**10. Religious Leave.** Appointing authorities shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off for overtime. (4-5-85)~~

~~**11. Leave During Facility Closure or Inaccessibility.** (7-1-93)~~

~~**a. Authorization.** When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees shall be authorized administrative leave with pay (Ref. Rule 250.06) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)~~

~~**b. Compensation for extra hours worked.** An employee who works at a state facility during declared closure or inaccessibility shall be, in addition to regular salary, granted time off equal to the number of hours worked. If overtime is involved, it shall be compensated as provided by Section 67-53298, Idaho Code. (4-5-85)~~

~~**c. Early release.** When the appointing authority or designated representative authorizes early release of employees pursuant to Rule 250.11.a., the resulting time off shall be charged to administrative leave with pay. (Ref. Rule 250.06) (3-16-04)~~

~~**1207. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers shall be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. Such relief services must be in Idaho or a state bordering Idaho. (3-30-01)( )~~

~~**1308. Employee Assistance Program Leave.** Up to two (2) hours per visit shall be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. EAP leave shall be coded as MDA EAP. (Ref. Rule 240.04). (3-30-01)( )~~

**251. -- 2598. (RESERVED).**

### **259. COMPENSABLE HOURS.**

**01. Biweekly Employees.** With the exception of holiday leave, no leave may be used if it will result in pay in excess of the employee's regularly scheduled work week. ( )

**02. Ineligible Employees.** Employees who are "executive" as defined by Section 67-5302(12), Idaho Code, are ineligible to earn or receive payment for hours worked or accrued beyond their regularly scheduled work week. ( )

### **260. OVERTIME.**

**01. Employing Agencies.** The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) department, the department(s) employing the employee when the overtime occurs shall be liable for compensatory time off or cash compensation as provided by law. (7-1-87)

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**02. Compensation for Overtime.** Overtime accrual and compensation for classified employees is covered by Sections 67-53298 ~~and 67-5330~~, Idaho Code, and Section 59-1607 for nonclassified employees. Overtime is defined in Section 67-5302(~~4920~~), Idaho Code.

(~~7-1-87~~)(\_\_\_\_)

**03. Forfeiture of Compensatory Time.** Employees who become executives within their current agency as set forth by Section 67-5302(12), Idaho Code, shall have six (6) months from the date of appointment to use any compensatory time balance. After six (6) months, any remaining compensatory time will be forfeited. Separation or transfer will continue to result in forfeiture of compensatory time.

(\_\_\_\_)

**034. Modification of Workweek or Schedule.** No department shall alter a previously established work week for the purpose of avoiding overtime compensation. A department may modify the employee's regular schedule of work to avoid or minimize overtime.

(7-1-87)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **272. POLICY MAKING AUTHORITY.**

To address the need for all classified employees to be treated equally fairly, and in situations where the State may be considered as one (1) employer, the Division of Human Resources Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule.

(~~3-16-04~~)(\_\_\_\_)

#### **~~273. MINIMUM HUMAN RESOURCE POLICIES.~~**

~~In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply.~~

(~~3-16-04~~)

~~01. Problem Solving. (Ref. Rule 200) (3-16-04)~~

~~02. Due Process. (Ref. Rule 200.01.a.) (3-16-04)~~

~~03. Compensation, Including Overtime and Compensatory Time. (Ref. Rule 073.06) (3-16-04)~~

~~04. Reasonable Accommodations/ADA. (Ref. Rule 021) (3-16-04)~~

~~05. Sexual Harassment and Other Illegal Discrimination. (Ref. Rule 021) (3-16-04)~~

~~06. Conflict of Interest — Nepotism. (Ref. Rule 024 and 025) (3-16-04)~~

~~07. Drugfree Workplace. (Ref. Rule 190.01.f.) (3-16-04)~~

**2743. -- 999. (RESERVED).**



# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 17 - INDUSTRIAL COMMISSION**

### **17.02.08 - MISCELLANEOUS PROVISIONS**

**DOCKET NO. 17-0208-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-508, 72-720, 72-721, 72-722, 72-723, and 72-803, Idaho Code. The pending rule implements the requirements mandated by Section 72-803, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

As a result of input received from public hearings, written comments, and research, the Commission increased the number of service categories and code ranges, added descriptions of the code ranges, adjusted some of the conversion factors, and changed the first adjustment date from FY 2010 to FY2009.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2007, Idaho Administrative Bulletin, Vol. 07-10, pages 17 through 20.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Mindy Montgomery, Director, 208-334-6000.

DATED this 14th day of November, 2007.

Mindy Montgomery, Director  
Industrial Commission  
317 Main Street  
P.O. Box 83720, Boise, ID 83720-0041  
Phone: 208-334-6000 Fax: 208-334-2321

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**INDUSTRIAL COMMISSION**  
**Miscellaneous Provisions**

**Docket No. 17-0208-0702**  
**PENDING RULE**

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### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, AND 72-723, Idaho Code, and Section 72-803 of the Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**October 9, 2007**  
**3:00 p.m. – 6:00 p.m.**  
**Ameritel Inn**  
**333 Ironwood Ave.**  
**Coeur d'Alene, ID**

**October 15, 2007**  
**1:00 p.m. - 5:00 p.m.**  
**Industrial Commission**  
**317 Main Street**  
**Boise, ID**

**October 18, 2007**  
**3:00 p.m. – 6:00 p.m.**  
**Ameritel Inn**  
**645 Lindsay Blvd.**  
**Idaho Falls, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The medical fee schedule included in IDAPA 17.02.08 is currently a temporary rule that expires at the end of the 2008 legislative session. The medical fee schedule and rule changes incorporates the analysis performed by Ingenix, a consulting firm, to establish and maintain stability for reimbursement methodology for providers, sureties, and employers while maintaining budget neutrality. The proposed rule attempts to be equitable to all parties while maintaining access to providers by injured workers.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the affected interests are not likely to reach consensus. Written and verbal comments have been received from medical providers, sureties, and self-insured employers and were considered in the proposed amendments.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mindy Montgomery, Director, 208-334-6000.

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### INDUSTRIAL COMMISSION Miscellaneous Provisions

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Docket No. 17-0208-0702  
PENDING RULE

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 24th day of August, 2007.

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 031. ACCEPTABLE CHARGES FOR MEDICAL SERVICES UNDER THE IDAHO WORKERS' COMPENSATION LAW.

Pursuant to Section 72-508 and Section 72-803, Idaho Code, the Industrial Commission (hereinafter "the Commission") hereby adopts the following rule for determining acceptable charges for medical services provided under the Idaho Workers' Compensation Law: (3-12-07)

**01. Definitions.** Words and terms used in this rule are defined in the subsections which follow. (6-1-92)

**a.** "Acceptable charge" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider, or the charge agreed to pursuant to written contract. (3-12-07)

**b.** "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ( )

**bc.** "Hospital" is any acute care facility providing medical or hospital services and which bills using a ~~UB92 form~~ Medicare universal hospital billing form. (3-12-07)( )

**i.** Large hospital is any hospital with more than ~~fifty~~ one hundred (~~5100~~) acute care beds. (3-12-07)( )

**ii.** Small Hospital is any hospital with ~~fifty~~ one hundred (~~5100~~) acute care beds or less. (3-12-07)( )

**ed.** "Provider" means any person, firm, corporation, partnership, association, agency, institution or other legal entity providing any kind of medical service related to the treatment of an industrially injured patient which are compensable under Idaho's Workers' Compensation Law. (3-12-07)

**de.** "Payor" means the legal entity responsible for paying medical benefits under Idaho's Workers' Compensation Law. (6-1-92)

**ef.** "Medical Service" means medical, surgical, dental or other attendance or

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### INDUSTRIAL COMMISSION Miscellaneous Provisions

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PENDING RULE

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treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses, and related service, facility, equipment and supply. (3-12-07)

**fg.** “Reasonable,” means a charge does not exceed the Provider’s “usual” charge and does not exceed the “customary” charge, as defined below. (3-12-07)

**gh.** “Usual” means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. (3-12-07)

**hi.** “Customary” means a charge which shall have an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. (3-12-07)

**02. Acceptable Charge.** Payors shall pay providers the acceptable charge for medical services. (3-12-07)

**a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the acceptable charge for medical services provided under the Idaho Workers' Compensation Law by providers other than hospitals and ASCs. The standard for determining the acceptable charge for hospitals and ASCs shall be: ~~(3-12-07)~~( )

i. For large hospitals: Eighty-five percent (805%) of the ~~reasonable~~ appropriate inpatient charge. ~~(3-12-07)~~( )

ii. For small hospitals: Ninety-five percent (950%) of the ~~reasonable~~ appropriate inpatient charge. ~~(3-12-07)~~( )

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of the appropriate charge. ( )

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). ( )

v. Paragraph 031.02.e., shall not apply to hospitals or ASCs. The Commission shall determine the appropriate charge for hospital and ASC services that are disputed based on all relevant evidence in accordance with the procedures set out in Subsection 032.10. ( )

**b.** Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

## INDUSTRIAL COMMISSION Miscellaneous Provisions

**Docket No. 17-0208-0702  
PENDING RULE**

<b>MEDICAL FEE SCHEDULE</b>			
<u>SERVICE CATEGORY</u>	<u>CODE RANGE(S)</u>	<u>DESCRIPTION</u>	<u>CONVERSION FACTOR</u>
Anesthesia	00000 - 09999	Anesthesia	\$58.19
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	\$140
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	\$125
Surgery - Group Three	13000 - 19999 20650 - 21999	Integumentary System Musculoskeletal System	\$110
Surgery - Group Four	20000 - 20615 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Musculoskeletal System Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	\$85
Surgery - Group Five	10000 - 12999 29000 - 29799	Integumentary System Casts & Strapping	\$67
Radiology	70000 - 79999	Radiology	\$85
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90799 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	\$45
Medicine - Group Two	90800 - 92999 96040 - 96999 99000 - 99607	Psychiatry & Medicine Assessments & Special Procedures E / M & Miscellaneous Services	\$64.50
Medicine - Group Three	93000 - 93999 95000 - 96020	Cardiography, Catheterization, & Vascular Studies Allergy / Neuromuscular Procedures	\$70

**bc.** The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### INDUSTRIAL COMMISSION Miscellaneous Provisions

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PENDING RULE

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previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Codes ~~01995 and~~ 01996. (3-12-07)( )

**ed.** Adjustment of Conversion Factors. The conversion factors set out in this rule shall be adjusted ~~prior to the beginning of~~ each ~~state~~ fiscal year (FY), starting with FY ~~2008~~ 2009, as determined by the director of the Department of Health and Welfare using the methodology set forth in section 56-136, Idaho Code, pursuant to Section 72-803, Idaho Code. ~~The Commission shall determine the adjustment, which shall equal the percent change in the all item consumer price index for the west urban area, as published by the U.S. Department of Labor, for the twelve-month (12) month period ending with December of the prior year.~~ (3-12-07)( )

**de.** Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant ~~factors~~ evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 031.02.b., determine the ~~reasonable~~ acceptable charge for that service, based on all relevant ~~factors~~ evidence in accordance with the procedures set out in Subsection 032.140. (3-12-07)( )

**ef.** Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: (3-12-07)

- i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. (3-12-07)
- ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. (3-12-07)
- iii. Modifier 80: Twenty-five percent (25%) of coded procedure. (3-12-07)
- iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. (3-12-07)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.01 - TITLE INSURANCE DEFINITION OF TRACT INDEXES AND ABSTRACT RECORDS**

**DOCKET NO. 18-0101-0701**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

##### **THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-2705, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The changes are intended to clarify that only the geographic index is required to be complete from inception of title from the United States of America, while the name index (grantor/grantee index), which must include all instruments, proceedings and matters of record that affect title, is not required to be complete from inception of title. The changes also include the addition of new sections to comply with administrative rule style requirements.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change in rule was requested by the title industry (the group that will be affected by the changes) and the proposed changes to the rule were accomplished in consultation with title industry representatives.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dale Freeman at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DEPARTMENT OF INSURANCE**

**Docket No. 18-0101-0701**

### **Title Insurance Definitions of Tract Indexes & Abstract Records PENDING RULE**

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comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 7th day of August, 2007.

### **THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0101-0701**

#### **000. LEGAL AUTHORITY.**

This Rule is promulgated pursuant to the general rule making authority in Idaho Code, Section 41-211, to aid in the effectuation of Idaho Code, Section 41-2702. ( )

#### **001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 18.01.01, "Title Insurance Definition of Tract Indexes and Abstract Records." ( )

**02. Application of Rule.** The provisions of this rule shall apply to all title insurers and title insurance agents. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Section 41-2702, Idaho Code. ( )

**03. Purpose.** The purpose of this Rule is to define and clarify the meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code. ( )

#### **002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(1)(v), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. ( )

#### **003. ADMINISTRATIVE APPEALS.**

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General - General Provisions. ( )

#### **004. INCORPORATION BY REFERENCE.**

No documents have been incorporated by reference into these rules. ( )

#### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB ADDRESS.**

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays ( )



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE

Docket No. 18-0101-0701

### Title Insurance Definitions of Tract Indexes & Abstract Records PENDING RULE

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**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. ( )

**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>. ( )

### **006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

**0007. -- 010. (RESERVED).**

### **011. TRACT INDEXES OR ABSTRACT RECORDS.**

For clarification and guidance, the following is considered to be the correct definition or meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code: "A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained, ~~such set of indexes to be complete from the inception of title from the United States of America.~~" (7-1-93)( )

**01. Basic Component Parts.** The basic component parts of such a set of indexes are: (7-1-93)

**a.** An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: (7-1-93)( )

**i.** All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and (7-1-93)

**ii.** All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 012.01.b. below. (7-1-93)

**iii.** No requirement is hereby made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. (7-1-93)

**b.** A name index or indexes wherein notations of or references to all instruments, proceedings and other matters of record in the particular county which legally affects or may

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE

Docket No. 18-0101-0701

### Title Insurance Definitions of Tract Indexes & Abstract Records PENDING RULE

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legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named therein and affected thereby, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. (7-1-93)

**02. Index Maintenance.** The indexes prescribed in Subsection 012.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (7-1-93)

**03. Subdivision or Refinement.** The extent to which the prescribed indexes shall be subdivided or refined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination. (7-1-93)

**04. Discarding or Destroying.** Any requirement set forth in this rule to the contrary notwithstanding, it shall be permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner's title insurance issued thereon. The discarding and destruction of prescribed index components herein provided for is applicable only when a permanent copy of the search notes, examiner's opinion and issued policy is retained in lieu of the discarded and destroyed index components. (7-1-93)

### **013. SEVERABILITY.**

If any provision of this Rule is for any reason held to be invalid, the remainder of the Rule shall not be affected thereby. (7-1-93)

**0134. -- 999. (RESERVED).**

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**

**18.01.03 - MILITARY SALES PRACTICES RULE**

**DOCKET NO. 18-0103-0701 (NEW CHAPTER)**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is September 5, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1302, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule identifies specific methods and practices used in selling life insurance and annuity products to active duty military personnel that will be considered dishonest, unfair, deceptive or predatory for purposes of Section 41-1302, Idaho Code. This rule is a model rule developed by the National Association of Insurance Commissioners to comply with the federal Military Personnel Financial Services Act, which called for states to adopt uniform rules to protect military personnel from abusive sales practices for certain types of insurance products.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The rule is necessary to comply with changes to state and federal law and will confer a public benefit by protecting active duty military personnel from abusive and predatory insurance sales practices.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

This rulemaking does not impose any fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE**  
**Military Sales Practices Rule****Docket No. 18-0103-0701**  
**PENDING RULE**

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impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact to the general fund resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is a model rule developed by the NAIC after public meetings involving industry and other affected parties. It is being adopted to comply with a federal law calling on states to adopt uniform standards governing insurance sales to military personnel.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Shad Priest at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 9th day of August, 2007.

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **IDAPA 18 TITLE 01 CHAPTER 03**

#### **18.01.03 - MILITARY SALES PRACTICES RULE**

**000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211 and 41-1302, Idaho Code. ( )

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 18.01.03, "Military Sales Practices Rule." ( )

**02. Purpose.** ( )

**a.** The purpose of this rule is to set forth standards to protect active duty service

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DEPARTMENT OF INSURANCE Military Sales Practices Rule**

**Docket No. 18-0103-0701  
PENDING RULE**

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members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

( )

**b.** Nothing herein shall be construed to create or imply a private cause of action for a violation of this rule.

( )

### **03. Scope.**

( )

**a.** This rule shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces. For purposes of this rule, general advertisements, direct mail and internet marketing shall not constitute solicitation. Telephone marketing shall not constitute solicitation provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this rule in any in-person, face-to-face meeting established as a result of the solicitation exemptions identified in this subsection.

( )

**b.** Nothing herein shall be construed to abrogate the ability of nonprofit organizations (or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense Instruction 1344.07 - Personal Commercial Solicitation on Department of Defense Installations or successor directives.

( )

**c.** This rule shall not apply to solicitations or sales involving:

( )

**i.** Credit insurance;

( )

**ii.** Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

( )

**iii.** An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

( )

**iv.** Individual stand-alone health policies, including disability income policies;

( )

**v.** Contracts offered by Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965 et seq.;

( )

**vi.** Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code, and which are not underwritten by an insurer; or

( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Military Sales Practices Rule

Docket No. 18-0103-0701  
PENDING RULE

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- vii. Contracts used to fund: ( )
- (a) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA); ( )
- (b) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, as amended, if established or maintained by an employer; ( )
- (c) A government or church plan defined in Section 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the Internal Revenue Code; ( )
- (d) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; ( )
- (e) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or ( )
- (f) Prearranged funeral contracts. ( )

#### 002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ( )

#### 003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General – General Provisions. ( )

#### 004. INCORPORATION BY REFERENCE.

There are no records incorporated by reference. ( )

#### 005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ( )

**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3<sup>rd</sup> Floor, Boise, Idaho 83702-0043. ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Military Sales Practices Rule

Docket No. 18-0103-0701  
PENDING RULE

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**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>.  
( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code.  
( )

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Active Duty.** Full-time duty in the active military service of the United States including members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than thirty-one (31) calendar days.  
( )

**02. Department of Defense Personnel.** All active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.  
( )

**03. Door to Door.** A solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.  
( )

**04. General Advertisement.** An advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.  
( )

**05. Insurer.** An insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.  
( )

**06. Insurance Producer.** A person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.  
( )

**07. Known or Knowingly.** Depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:  
( )

**a.** Is a service member; or  
( )

**b.** Is a service member with a pay grade of E-4 or below.  
( )

**08. Life Insurance.** Insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.  
( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Military Sales Practices Rule

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PENDING RULE

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**09. Military Installation.** Any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters. ( )

**10. MyPay.** A Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms. ( )

**11. Service Member.** Any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces. ( )

**12. Side Fund.** A fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include: ( )

**a.** Accumulated value or cash value or secondary guarantees provided by a universal life policy; ( )

**b.** Cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or ( )

**c.** A premium deposit fund which: ( )

**i.** Contains only premiums paid in advance which accumulate at interest; ( )

**ii.** Imposes no penalty for withdrawal; ( )

**iii.** Does not permit funding beyond future required premiums; ( )

**iv.** Is not marketed or intended as an investment; and ( )

**v.** Does not carry a commission, either paid or calculated. ( )

**13. Specific Appointment.** A prearranged appointment agreed upon by both parties and definite as to place and time. ( )

**14. United States Armed Forces.** All components of the Army, Navy, Air Force, Marine Corps, and Coast Guard. ( )

### 011. PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR ON A MILITARY INSTALLATION.

**01. Unfair Practices Regarding Solicitation.** The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair: ( )



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### DEPARTMENT OF INSURANCE Military Sales Practices Rule

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- a. Knowingly soliciting the purchase of any life insurance product “door to door” or without first establishing a specific appointment for each meeting with the prospective purchaser. ( )
- b. Soliciting service members in a group or “mass” audience or in a “captive” audience where attendance is not voluntary. ( )
- c. Knowingly making appointments with or soliciting service members during their normally scheduled duty hours. ( )
- d. Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation. ( )
- e. Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander’s designee. ( )
- f. Posting unauthorized bulletins, notices or advertisements. ( )
- g. Failing to present DD Form 2885, *Personal Commercial Solicitation Evaluation*, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885. ( )
- h. Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer’s files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by rules, directives or rules of the Department of Defense or any branch of the Armed Forces. ( )

**02. Corrupt Practices, Improper Influences and Inducements.** The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair: ( )

- a. Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members. ( )
- b. Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program. ( )

### **012. PRACTICES DECLARED FALSE, MISLEADING, DECEPTIVE OR UNFAIR REGARDLESS OF LOCATION.**

**01. Corrupt Practices, Improper Influences and Inducements.** The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair: ( )

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**a.** Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form. ( )

**b.** Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution: ( )

**i.** Provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. Section 4301 et seq. and the rules promulgated thereunder; and ( )

**ii.** Permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums. ( )

**c.** Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in subsection 012.01.b of this rule. ( )

**d.** Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship. ( )

**e.** Using Department of Defense personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel. ( )

**f.** Offering or giving anything of value, directly or indirectly, to Department of Defense personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member. ( )

**g.** Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited. ( )

**h.** Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or state of legal residence for the sole purpose of increasing disposable income to purchase life insurance. ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**02. Unfair Practices Regarding Sponsorship, Approval or Affiliation.** The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair: ( )

**a.** Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS). ( )

**b.** Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces. ( )

**03. Unfair Practices Regarding Costs or Returns.** The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair: ( )

**a.** Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid. ( )

**b.** Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free." ( )

**04. Unfair Practices Regarding SGLI or VGLI.** The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair: ( )

**a.** Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive. ( )

**b.** Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is

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false, misleading or deceptive. ( )

c. Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces. ( )

**05. Unfair Practices Regarding Disclosure.** The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair: ( )

a. Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance. ( )

b. Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser. ( )

c. Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance. ( )

d. Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16. ( )

e. Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken: ( )

i. An explanation of any free look period with instructions on how to cancel if a policy is issued; and ( )

ii. Either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. ( )

**06. Unfair Sales Practices Regarding Certain Life Insurance Products.** The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair: ( )

a. Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable. ( )

b. Offering for sale or selling a life insurance product which includes a side fund to a

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service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance. ( )

i. "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents. ( )

ii. "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits. ( )

c. Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund: ( )

i. Unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty; ( )

ii. Unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and ( )

iii. Which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due. ( )

d. Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance. ( )

e. Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded. ( )

### 013. SEVERABILITY.

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable. ( )

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE**  
***Military Sales Practices Rule***

***Docket No. 18-0103-0701***  
***PENDING RULE***

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**014. EFFECTIVE DATE.**

This rule shall become effective September 5, 2007 and shall apply to acts or practices committed on or after the effective date. ( )

**015. -- 999. (RESERVED).**

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**

### **18.01.06 - RULE TO IMPLEMENT UNIFORM COVERAGE FOR NEWBORN AND NEWLY ADOPTED CHILDREN**

**DOCKET NO. 18-0106-0601 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 41-211 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 115 through 118.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joan Krosch, Idaho Department of Insurance, at 208/334-4250.

DATED this 29th day of October, 2007.

William W. Deal  
Idaho Department of Insurance  
700 West State St., 3rd Floor  
Boise, Idaho 83720-0043  
Phone: (208) 334-4250  
Fax: (208)334-4398

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF INSURANCE**  
**Uniform Coverage for Newborn/Newly Adopted Children**

**Docket No. 18-0106-0601**  
**PENDING RULE**

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### **THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 41, Chapters 2 and 13, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency on or before August 15, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rulemaking creates a new rule clarifying requirements for providing coverage to newborn and newly adopted children. It defines what constitutes a congenital anomaly that must be covered under insurance policies, explains the extent to which congenital anomalies must be covered and sets forth period for payment of premium to secure coverage of a newborn or newly adopted child.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges being imposed through this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Negotiated rule was published in the June 7, 2007 Administrative Bulletin, Volume 07-6, page 106.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joan Krosch at (208) 334-4300.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2007.

DATED this 29th day of June, 2007.



# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF INSURANCE**  
**Uniform Coverage for Newborn/Newly Adopted Children**

**Docket No. 18-0106-0601**  
**PENDING RULE**

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## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### **IDAPA 18** **TITLE 01** **CHAPTER 06**

#### **18.01.06 - RULE TO IMPLEMENT UNIFORM COVERAGE FOR NEWBORN AND NEWLY ADOPTED CHILDREN**

##### **000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority vested in the Director under Title 41, Chapter 2, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** This Rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.06, "Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children." ( )

**02. Scope.** This rule sets forth uniform requirements to be followed by health plans providing coverage to newborn and newly adopted children in accordance with Sections 41-2140, 41-2210, 41-3437, 41-3923, 41-4023 and 41-4123, Idaho Code. ( )

##### **002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. ( )

##### **003. ADMINISTRATIVE APPEALS.**

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

##### **004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference. ( )

##### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.**

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Uniform Coverage for Newborn/Newly Adopted Children

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**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. ( )

**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>. ( )

### **006. PUBLIC RECORDS ACT COMPLIANCE.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

### **007. -- 009. (RESERVED).**

### **010. DEFINITIONS.**

As used in this chapter the following terms shall have the following meanings. ( )

**01. Congenital Anomaly.** "Congenital anomaly" means a condition existing at or from birth that is a significant deviation from the common form or function of the body, whether caused by a hereditary or developmental defect or disease. For the purposes of this chapter, the term significant deviation is defined to be a deviation which impairs the function of the body and includes but is not limited to the conditions of cleft lip, cleft palate, webbed fingers or toes, sixth toes or fingers, or defects of metabolism and other conditions that are medically diagnosed to be congenital anomalies. ( )

**02. Health Plan.** "Health plan" means any type of benefit plan or contract of coverage that is subject to the requirements of Sections 41-2140, 41-2210, 41-3437, 41-3923, 41-4023 or 41-4123, Idaho Code. ( )

**03. Health Plan Member.** "Health plan member" means a person entitled to benefits as a member, subscriber or insured under a health plan and who, under the terms of the health plan contract, may add dependents for coverage under the health plan. ( )

**04. Newborn Child.** "Newborn child" means: ( )

**a.** A child born to a health plan member and added to the health plan as a newborn dependent in accordance with the terms of the health plan contract; or ( )

**b.** An adopted newborn child placed with the adopting health plan member within sixty (60) days of birth and added to the adopting health plan member's health plan as a newborn dependent in accordance with the terms of the health plan contract. ( )

**05. Newly Adopted Child.** "Newly adopted child" means a child under the age of 18 who is placed with the adopting health plan member more than sixty (60) days after the child's birth and added to the adopting health plan member's health plan as a dependent in accordance with the terms of the health plan contract. ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

**DEPARTMENT OF INSURANCE**  
**Uniform Coverage for Newborn/Newly Adopted Children**

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**PENDING RULE**

**06. Placed.** “Placed” means physical placement in the care of the adopting health plan member. If physical placement is prevented due to the medical needs of the child, “placed” means the date the adopting health plan member signs an agreement for adoption of the child and assumes financial responsibility for the child. ( )

### **011. COVERAGE REQUIREMENTS.**

**01. Coverage of Newborn and Newly Adopted Children.** A health plan subject to this chapter shall provide coverage to: ( )

- a.** A newborn child of a health plan member from the moment of birth; or ( )
- b.** A newly adopted child of a health plan member from the date the child is placed with the adopting health plan member. ( )

**02. Coverage Requirements.** Coverage of newborn and newly adopted children shall be at least equivalent to the coverage afforded other health plan members under the health plan and shall also include, but not be limited to, coverage for the medically necessary care and treatment of congenital anomalies. ( )

**03. Pre-Existing Conditions.** A health plan may not apply a pre-existing condition exclusion to a newborn or newly adopted child. ( )

**04. Cosmetic Surgery.** A health plan may not exclude as cosmetic surgery reconstructive surgery for congenital anomalies of a covered dependent child entitled to congenital anomaly coverage under this chapter. ( )

**05. Limitations on Coverage for Congenital Anomalies.** A health plan may apply exclusions, requirements or benefit limitations, including cost sharing requirements, to coverage for congenital anomalies that are consistent with the requirements of this rule and no more restrictive than exclusions, requirements or benefit limitations applied to coverage for similar treatments, conditions and services provided under the health plan. ( )

### **012. NOTIFICATION AND PAYMENT REQUIRMENTS.**

**01. Notification and Payment.** ( )

**a.** If notice and payment of additional premium are required for dependent coverage under the health plan contract, the contract may require notice of birth, placement or adoption and payment of required premium as a condition of coverage for newborn and newly adopted children. The notification period shall be not less than sixty (60) days from the date of birth for a newborn child or, for newly adopted children, sixty (60) days from the earlier of the date of adoption or placement for adoption. The due date for payment of any additional premium, if required, shall be not less than thirty-one (31) days following receipt by the health plan member of a billing for the required premium. ( )

**b.** All requirements for notice and payment of premium applied by the health plan for

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE****Docket No. 18-0106-0601****Uniform Coverage for Newborn/Newly Adopted Children****PENDING RULE**

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the enrollment of newborn or newly adopted children shall be clearly set forth in the health plan contract and provided to the health plan members in a manner reasonably calculated to provide notice to the members of the requirements. ( )

c. If the health plan member fails to provide the required notification, or make the required premium payment, the health plan may decline to enroll a dependent child as a newborn or newly adopted child, but shall treat a newborn or newly adopted child no less favorably than it treats other applicants who seek coverage at a time other than when the applicant was first eligible to apply for coverage. ( )

**013. PORTABILITY.**

The coverage provided by this chapter applies to any subsequent health plan that is issued providing coverage to the newborn or newly adopted child. If there is a break in coverage that exceeds sixty-three (63) days, the health plan may treat a congenital anomaly as a pre-existing condition and apply pre-existing condition exclusions as allowed under the applicable state and federal laws. ( )

**014. -- 999. (RESERVED).**

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.50 - ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE**

**DOCKET NO. 18-0150-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 41-211 and 41-253, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 23 through 26.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark A. Larson, Idaho State Fire Marshal, at 208-334-4370.

DATED this 23rd day of November, 2007.

Mark A. Larson, State Fire Marshal  
Idaho Department of Insurance  
700 W. State Street – 3<sup>rd</sup> Floor  
Boise ID 83720  
P.O Box 83720  
Boise ID 83720  
Phone: (208)334-4370  
Fax: (208) 334-4375

***THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE***

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE**  
**Adoption of the 2003 International Fire Code**

**Docket No. 18-0150-0701**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is October 3, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211 and 41-253, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2006 edition of the International Fire Code is a companion document to the 2006 edition of the International Building Code as adopted by the state of Idaho, Building Bureau, under other statutory authority. The adoption of this edition provides, by statute, a minimum standard for the protection of life and property from fire and explosion for the state of Idaho.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 41-253, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The building code 2006 edition is already in effect for the state. This temporary rule permits a seamless transition for the application of current code requirements for buildings across the state and will benefit the public by assuring consistency between the Building Code and Fire Code applicable in Idaho.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not feasible due to the urgency needed to adopt the temporary rule because of its companion relationship to the adopted building code. The rule merely adopts an updated edition of an existing code without substantive change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Adoption of the 2003 International Fire Code

Docket No. 18-0150-0701  
PENDING RULE

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rule, contact Mark A. Larson, Idaho State Fire Marshal, at 208-334-4370.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 9th day of August, 2007.

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 18.01.50 - ADOPTION OF THE 2003~~6~~ INTERNATIONAL FIRE CODE

##### 001. TITLE AND SCOPE.

**01. Title.** These rules shall be cited as IDAPA 18.01.50, Rules of the Idaho Department of Insurance, Title 01, Chapter 50, "Adoption of the 2003~~6~~ International Fire Code." ~~(4-6-05)~~(\_\_\_\_)

**02. Scope.** Pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the 2003~~6~~ edition of the International Fire Code *in order to provide uniformity in the plan review process for state owned and maintained buildings and to maintain consistency and conformity with the International Building Code as the minimum standard for the protection of life and property from fire and explosion for the state of Idaho.* ~~(4-6-05)~~(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

##### 004. INCORPORATION BY REFERENCE.

**01. 2003~~6~~ International Fire Code.** In accordance with Section 67-5229, Idaho Code, and pursuant to the authority provided by Section 41-253, Idaho Code, the Idaho Fire Marshal hereby adopts the 2003~~6~~ edition of the International Fire Code as published by the International Code Council with the following revisions, additions, deletions and appendixes. ~~(4-6-05)~~(\_\_\_\_)

**02. Availability of Referenced Material.** Copies of the 2003~~6~~ edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal, the State Law Library, and the State Legislative Council. Copies of the 2003~~6~~ International Fire Code may be procured by writing the International Code Council, Northwest Resource Center, 2122 112th Ave NE, Suite C, Bellevue, WA 98004. ~~(4-6-05)~~(\_\_\_\_)

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DEPARTMENT OF INSURANCE  
Adoption of the 2003 International Fire Code

Docket No. 18-0150-0701  
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## (BREAK IN CONTINUITY OF SECTIONS)

### 016. PERMIT REQUIRED, SECTION 105.81.1, INTERNATIONAL FIRE CODE.

A permit, if required by the local jurisdiction, shall be obtained from the designated official prior to engaging in activities requiring a permit within the local jurisdiction. (5-3-03)(\_\_\_\_)

### 017. VIOLATION PENALTIES, SECTION 109.3, INTERNATIONAL FIRE CODE.

In Section 109.3, Violation Penalties, International Fire Code, delete *everything after the phrase* the sentence that includes “shall be guilty of a,” and replace with the word “misdemeanor.” (5-3-03)(\_\_\_\_)

## (BREAK IN CONTINUITY OF SECTIONS)

### 047. -- 0501. (RESERVED).

### ~~051. TREATMENT SYSTEMS, SECTION 3704.2.2.7, INTERNATIONAL FIRE CODE.~~

~~Add to Section 3704.2.2.7, International Fire Code, the following paragraph: Upon approval of the Chief, emergency response kits recommended by the Chlorine Institute may be used for chlorine gas product leaks in lieu of the treatment system requirements of this section, as long as there are adequate responders immediately available, who are trained in their use and acceptable to the Chief.~~ (5-3-03)

### 052. REFERENCED STANDARDS, CHAPTER 45, INTERNATIONAL FIRE CODE.

Beginning on Page 36587, of the NFPA Referenced Standards, make the following changes to the referenced listed editions:

Delete	Add	Delete	Add	Delete	Add
10-98 10-2002	10-2002 10-2007	51-97 51-2002	51-2002 51-2007	407-96 407-2001	407-2001 407-2007
11-98 11-2002	11-2002 11-2005	52-98 52-2002	52-2002 52-2006	430-95 430-2000	430-2000 430-2004
12A-97	12A-2004	57-99	57-2002	480-98	484-2002
13-99 13-2002	13-2002 13-2007	58-2001	58-2004	481-2000	484-2002
13D-99 13D-2002	13D-2002 13D-2007	61-99	61-2002	482-96 484-2002	484-2002 484-2006
13R-99 13R-2002	13R-2002 13R-2007	69-97	69-2002	490-98	490-2002
14-2000 14-2003	14-2003 14-2007	72-99 72-2002	72-2002 72-2007	495-96 495-2001	495-2001 495-2006



# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

## DEPARTMENT OF INSURANCE Adoption of the 2003 International Fire Code

**Docket No. 18-0150-0701**  
**PENDING RULE**

Delete	Add	Delete	Add	Delete	Add
15-96 <u>15-2001</u>	15-2001 <u>15-2007</u>	85-2001 85-2004	85-2004 85-2007	498-96 498-2001	498-2001 498-2006
16-99 16-2003	16-2003 16-2007	86-99 86-2003	86-2003 86-2007	505-99 505-2002	505-2002 505-2006
17-98	17-2002	99-99 99-2002	99-2002 99-2005	650-98	654-2000
17A-98	17A-2002	101-2000 101-2003	101-2003 101-2006	651-98 654-2000	654-2000 654-2006
20-99 <u>20-2003</u>	20-2003 20-2007	110-99 110-2002	110-2002 110-2005	655-93 655-2001	655-2001 655-2007
22-98	22-2003	211-2000	211-2003	664-98 664-2002	664-2002 664-2007
24-95	24-2003	231-98	230-2003	704-96 704-2001	704-2001 704-2007
25-98	25-2002	231C-98	230-2003	750-2000 750-2003	750-2003 750-2006
30-2000	30-2003	231D-98	230-2003	1122-97	1125-2001
30A-2000	30A-2003	260-98	260-2003	1123-2000	1126-2001
30B-98 30B-2002	30B-2002 30B-2007	261-98	261-2003	1124-98 1124-2003	1124-2003 1124-2006
33-2000 33-2003	33-2003 33-2007	265-98 265-2002	265-2002 265-2007	1125-95 <u>1125-2001</u>	1125-2001 <u>1125-2007</u>
34-2000 34-2003	34-2003 34-2007	266-98	272-2003	1127-98	1127-2002
40-97 40-2001	40-2001 40-2007	<del>267-98</del> <u>120-1999</u>	<del>272-2003</del> <u>120-2004</u>	<del>2001-2000</del> <u>1123-2000</u>	<del>2001-2004</del> <u>1123-2006</u>
<u>12-2000</u>	<u>12-2005</u>	<u>160-2001</u>	<u>160-2001</u>	<u>1126-2001</u>	<u>1126-2006</u>
<u>24-2002</u>	<u>24-2007</u>	<u>241-2000</u>	<u>241-2004</u>	<u>31-2001</u>	<u>31-2006</u>
<u>35-1999</u>	<u>35-2005</u>	<u>286-2000</u>	<u>286-2006</u>	<u>32-2000</u>	<u>32-2007</u>
<u>51A-2001</u>	<u>51A-2006</u>	<u>303-2000</u>	<u>303-2006</u>	<u>701-1999</u>	<u>701-2004</u>
<u>59A-2001</u>	<u>59A-2006</u>	<u>385-2000</u>	<u>385-2007</u>	<u>703-2000</u>	<u>703-2006</u>
<u>80-1999</u>	<u>80-2007</u>	<u>409-2001</u>	<u>409-2004</u>	<u>267-98</u>	<u>272-2003</u>
<u>92B-2005</u>	<u>92A-2006</u>	<u>484-2002</u>	<u>484-2006</u>	<u>111-2001</u>	<u>111-2005</u>
				<u>2001-2000</u>	<u>2001-2004</u>

(4-6-05)( )

**053. -- 055. (RESERVED).**

**056. REFERENCES TO APPENDIX, INTERNATIONAL FIRE CODE.**

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF INSURANCE**  
**Adoption of the 2003 International Fire Code****Docket No. 18-0150-0701**  
**PENDING RULE**

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When this code references the appendix, the provisions of the appendix shall not apply unless specifically incorporated by reference. The following appendixes of the International Fire Code are incorporated by reference: (5-3-03)

01. Appendix B, Fire Flow Requirements for Buildings. (5-3-03)
02. Appendix C, Fire Hydrant Location and Distribution. (5-3-03)
03. Appendix D, Fire Apparatus Access Roads. ~~D107.1 One or two family dwelling residential developments. Exceptions: Item 1. In the first sentence delete the word "fewer" and add the word "more."~~ (4-6-05)(\_\_\_\_)
04. Appendix E, Hazard Categories. (5-3-03)
05. Appendix F, Hazard Rankings. (5-3-03)

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 18 - DEPARTMENT OF INSURANCE**

**18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS**

**DOCKET NO. 18-0160-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages, 31 through 34.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Joan Krosch at (208) 334-4250.

DATED this 29th day of October, 2007.

William W. Deal  
Idaho Department of Insurance  
700 West State St., 3rd Floor  
Boise, Idaho 83720-0043  
Phone: (208) 334-4250  
Fax: (208)334-4398

***THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF INSURANCE**  
**Long-Term Care Insurance Minimum Standards**

**Docket No. 18-0160-0701**  
**PENDING RULE**

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Section 41-211.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rulemaking amends IDAPA 18.01.60.027 by removing ambiguous language and clarifying training requirements for insurance producers selling long term care insurance policies that qualify for Idaho's Long Term Care Insurance Partnership Program.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes simply clarify existing requirements and do not impose any new training requirements for producers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Joan Krosch at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 14th day of August, 2007.

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **027. STANDARDS FOR MARKETING AND PRODUCER TRAINING.**

**01. General Provisions.** Every Insurer, Fraternal Benefit Society, Managed Care

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

---

### DEPARTMENT OF INSURANCE Long-Term Care Insurance Minimum Standards

Docket No. 18-0160-0701  
PENDING RULE

Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, shall: (3-30-07)

a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate. (3-30-07)

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations." (4-5-00)

d. Provide copies of the disclosure forms required in Subsection 009.10. (3-30-01)

e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c. (3-30-07)

f. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required. (4-5-00)

g. Establish auditable procedures for verifying compliance with Subsection 027.01. (3-30-07)

h. At solicitation, provide written notice to the prospective policyholder and certificate holder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-30-01)

i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 011.01.c. of this chapter. (3-30-07)

**02. Prohibited Practices.** In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited: (3-30-01)

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (4-5-00)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DEPARTMENT OF INSURANCE Long-Term Care Insurance Minimum Standards**

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**Docket No. 18-0160-0701  
PENDING RULE**

**b.** High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

**c.** Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company. (3-30-07)

**d.** Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (4-5-00)

**03. Associations.** With respect to the obligations set forth in Subsection 027.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. (3-30-07)

**a.** The insurer shall file with the insurance department the following material: (4-5-00)

i. The policy and certificate; (4-5-00)

ii. A corresponding outline of coverage; and (4-5-00)

iii. All advertisements to be utilized. (4-5-00)

**b.** The association shall disclose in any long-term care insurance solicitation: (4-5-00)

i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (4-5-00)

ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (4-5-00)

**c.** If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members. (4-5-00)

**d.** The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer. (4-5-00)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### DEPARTMENT OF INSURANCE Long-Term Care Insurance Minimum Standards

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PENDING RULE

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- e. The association shall also: (4-5-00)
- i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (4-5-00)
- ii. Actively monitor the marketing efforts of the insurer and its producers; and (3-30-07)
- iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (4-5-00)
- iv. Subsections 027.03.e.i. through 027.03.e.iii. shall not apply to qualified long-term care insurance contracts. (3-30-07)
- f. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in Section 027. (3-30-07)
- g. The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027. (3-30-07)
- h. Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds. (3-30-07)
- 04. Producer Training Requirements.** An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course ~~by or before November 1, 2007,~~ and ongoing training every twenty-four (24) months thereafter. The training shall meet the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.01.53 "Continuing Education." (3-30-07)( )
- a. The one-time training course required by this section shall be no less than eight (8) hours; ~~and~~ In addition to the one-time training course, an individual who sells, solicits, or negotiates long-term care insurance shall complete the ongoing training required by this Subsection 027.04, which shall be no less than four (4) hours every 24 months. (3-30-07)( )
- b. The training required under Subsection 027.04.a. shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: (3-30-07)
- i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (3-30-07)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE**  
**Long-Term Care Insurance Minimum Standards**

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**Docket No. 18-0160-0701**  
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- ii. Available long-term care services and providers; (3-30-07)
  - iii. Changes or improvements in long-term care services or providers; (3-30-07)
  - iv. Alternatives to the purchase of private long-term care insurance; (3-30-07)
  - v. The effect of inflation on benefits and the importance of inflation protection; and (3-30-07)
  - vi. Consumer suitability standards and guidelines. (3-30-07)
- c.** The training required by Subsection 027.04. shall not include any sales or marketing information, materials, or training, other than those required by state and federal law. (3-30-07)
- d.** Insurers subject to this rule shall obtain verification that a producer receives training required by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the director upon request. An insurer shall maintain records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as required by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care including Medicaid in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the director upon request. (3-30-07)
- e.** The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements of this state. (3-30-07)



# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 18 - DEPARTMENT OF INSURANCE**

### **18.01.79 - RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES**

#### **DOCKET NO. 18-0179-0701 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-612, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 5, 2007 Idaho Administrative Bulletin, Vol. 07-9, pages 203 through 206.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Martha Smith, Senior Financial Examiner, Idaho Department of Insurance, at 208/334-4315 or Martha.Hopper@doi.idaho.gov.

DATED this 29th day of October, 2007.

William W. Deal  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
Boise, ID 83720-0043  
208-334-4250  
208-334-4398 (Fax)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF INSURANCE**

**Docket No. 18-0179-0701**

**Mortality Tables/Use/Determining Minimum Reserve Liabilities**

**PENDING RULE**

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**THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 41-211 and 41-612, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The rule adopts actuarially developed mortality tables that will allow insurers to set reserves more accurately for more favorable risks. Insurers may elect whether or not to use the new tables.**

**The proposed rulemaking is based on a model law recently developed by the National Association of Insurance Commissioners in conjunction with the insurance industry. This rule allows insurers, at their option, to set reserves for life insurance policies using the newly developed 2001 CSO Preferred Class Structure Mortality Tables which more accurately reflect differences in mortality between preferred and standard risks. Most states are allowing insurers to use these tables for policies issued on or after January 1, 2007 for reserve valuations.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**This rule confers a benefit to the insurance industry by permitting lower reserves to be held where risk is determined to be less in the preferred class. Lower reserve requirements should result in lower premiums for affected policies and confer a benefit on Idaho consumers who purchase these types of policies. By adopting the rule with a January 1, 2007 effective date, insurers will be able to use the new reserve table for their 2007 calendar year reporting and Idaho consumers will be able to benefit to the same extent as consumers in other states that have adopted the rule.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is

# SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF INSURANCE**

**Docket No. 18-0179-0701**

**Mortality Tables/Use/Determining Minimum Reserve Liabilities**

**PENDING RULE**

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described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because known interested parties were afforded the opportunity for input during drafting of the rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Martha H. Smith, 208/334-4315, Martha.hopper@doi.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2007.

DATED this 25th day of July, 2007.

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### IDAPA 18 TITLE 01 CHAPTER 79

#### 18.01.79 - RECOGNITION OF PREFERRED MORTALITY TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

##### **000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211 and 41-612, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 18.01.79, "Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities." ( )

**02. Scope.** The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in

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determining minimum reserve liabilities in accordance with Sections 41-612(4)(a)(iii), Idaho Code, and IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors," Subsections 005.01 and 005.02. ( )

#### 002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying in accordance with the public records act. ( )

#### 003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

#### 004. INCORPORATION BY REFERENCE.

The Director of the Department of Insurance adopts by reference the 2001 CSO Preferred Class Mortality Tables. The tables are available on the Society of Actuaries website at <http://www.soa.org/research/individual-life/intl-2001-cso-preferred-class-structure-mortality-tables.aspx>. ( )

#### 005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

**01. Office Hours.** The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. ( )

**02. Mailing Address.** The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. ( )

**03. Street Address.** The principal place of business is 700 West State Street, 3<sup>rd</sup> Floor, Boise, Idaho 83702-0043. ( )

**04. Web Site Address.** The department's web address is <http://www.doi.idaho.gov>. ( )

#### 006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

#### 007. -- 009. (RESERVED).

#### 010. DEFINITIONS.

**01. 2001 CSO Mortality Table.** That mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the National Association of

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Insurance Commissioners (“NAIC”) in December 2002. The 2001 CSO Mortality Table is included in the “Proceedings of the NAIC (2nd Quarter 2002)” and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection 010.02. Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following: ( )

**a.** 2001 CSO Mortality Table (F). Mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table. ( )

**b.** 2001 CSO Mortality Table (M). Mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table. ( )

**c.** Composite Mortality Tables. Mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers. ( )

**d.** Smoker and Nonsmoker Mortality Tables. Mortality tables with separate rates of mortality for smokers and nonsmokers. ( )

**02. 2001 CSO Preferred Class Structure Mortality Table.** Those mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the “NAIC Proceedings (3<sup>rd</sup> Quarter 2006).” Unless the context indicates otherwise, the “2001 CSO Preferred Class Structure Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table. ( )

**03. Statistical Agent.** An entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner. ( )

#### **011. 2001 CSO PREFERRED CLASS STRUCTURE TABLE.**

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of IDAPA 18.01.59,

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“Recognition of the 2001 CSO Mortality Table For Use In Determining Minimum Reserve Liabilities And Nonforfeiture Benefits.” ( )

#### 012. CONDITIONS.

**01. Preferred Nonsmoker and Residual Standard Nonsmoker Tables.** For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that: ( )

**a.** The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. ( )

**b.** The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class. ( )

**02. Preferred Smoker and Residual Standard Smoker Tables.** For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that: ( )

**a.** The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class. ( )

**b.** The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table. ( )

**03. Unless Exempted By the Director.** Every authorized insurer using the 2001 CSO Preferred Class Structure Table shall annually file with the director, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the director, statistical reports showing mortality and such other information as the director may deem necessary or expedient for the administration of the provisions of this regulation. The form of the reports shall be established by the director or the director may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the director. ( )

**013. -- 999. (RESERVED).**

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**IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES**

**24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

**DOCKET NO. 24-0401-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-831, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 109 through 118.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 26th day of October, 2007.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste 220  
Boise, ID 83709  
(208) 334-3233 phone  
(208) 334-3945 fax

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### THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-831, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Allow degrees to be considered as equivalency in lieu of high school education, define examination, change references to the examination to allow for a third party examination administrator including deadline, model requirements, eligibility for reexamination, correct limitation on clinical services from hour requirement to percentage to comply with statute.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are necessary to allow third party examination administrator and clean up language to comply with statute.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.



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### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

**010. DEFINITIONS (RULE 10).**

These rules expressly adopt all definitions set forth in Section 54-802, Idaho Code, in addition to the following: (3-30-01)

- 01. Gender.** Any reference to a gender shall mean both masculine and feminine. (7-1-97)
- 02. Board.** The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. (7-1-97)
- 03. Bureau.** The Bureau of Occupational Licenses, as prescribed in Section 54-828 and Section 67-2602, Idaho Code. (3-8-02)
- 04. Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-97)
- 05. Current License.** An unexpired license in good standing. (7-1-97)
- 06. Establishment.** A licensed cosmetological establishment. (7-1-97)
- 07. Record of Instruction.** The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, the instructor. (3-30-01)
- 08. Certificate of Graduation.** A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. (7-1-97)
- 09. Rules.** The rules of the Board. (7-1-97)
- 10. School.** A licensed school of cosmetology. (7-1-97)
- 11. School of Electrology.** A licensed school of cosmetology approved to teach electrology. (3-30-01)
- 12. Endorsement Certification.** In accordance with Section 54-812, Idaho Code. (7-1-97)
- 13. Hospital Grade.** Hospital grade means a disinfecting agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant or any other equivalent agent that effectively frees instruments from infectious or otherwise harmful microorganisms. Such agents must be used in accordance with the manufacturer's instructions. (3-19-07)

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**14. First-Aid Kit.** First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting blood spills and other minor emergency traumas of the human body. (3-30-01)

**15. Patron.** Patron means any person who receives the services of anyone licensed or otherwise regulated by the provisions of Chapter 8, Title 54, Idaho Code. (3-19-07)

**16. Examination.** The examination approved by the board is the National Interstate Council of State Boards of Cosmetology examination. The examination shall consist of practical examination, theory examination and jurisprudence examination. (\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

## 200. APPLICATIONS (RULE 200).

**01. Application for License by Examination.** Application for license by examination shall be made on forms furnished by the Board. (3-8-02)

**a. Applicant.** Each applicant for licensure by examination shall be required to submit to the Board an application and the required fees. (3-8-02)

**b. Records.** The school or apprenticeship instructor shall submit the following directly to the Board: (3-8-02)

i. The record of instruction; (3-8-02)

ii. A signed and notarized certificate of graduation; (3-8-02)

iii. Proof of the required high school education (pursuant to Section 54-805, Idaho Code) or equivalent; and (3-8-02)

iv. Acceptable verification of applicants age upon registration as a student or apprentice. (3-8-02)

**02. Applications Must Be Complete to Be Accepted.** Applications shall not be considered complete and accepted until all required information, documents, and fees are received by the Board. (3-8-02)

**03. Examination.** Proof of successful passage of a practical and written examination as approved by the Board. (\_\_\_\_)

**034. Out of State Applicants.** (3-8-02)

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a. Applicants not completing their instruction in Idaho and currently licensed in another state, territory, possession or country, must also document their other licensure and provide verification of practical experience, in addition to the required application and fees.

(3-8-02)

b. Applicants not currently licensed in another state, territory, possession or country must provide certified documentation of all instruction received. Records of instruction must be received by the Board directly from the applicable regulatory agency or the facility that provided the instruction.

(3-8-02)

~~**04. Deadline Date for Filing.** An application must be fully completed, in accordance with Rule 200, before an applicant is eligible for examination. The application and fees must be received by the Board at least thirty (30) days prior to the date of examination. All other required records must be received by the Board at least fourteen (14) days prior to the date of examination. Those applicants whose applications or fees or records are not received in accordance with the deadlines will be scheduled for the next subsequent examination. Those applicants who fail any portion of the examination on their first attempt may submit an application with the required fee for re-examination, and if said application and fee is received by the board office prior to the next scheduled examination, the thirty (30) day application deadline shall be waived.~~

~~(3-8-02)~~

**201. -- 249. (RESERVED).**

### **250. ESTABLISHING EQUIVALENCY IN LIEU OF THE REQUIRED HIGH SCHOOL EDUCATION (RULE 250).**

The Board will accept the following tests and degrees as being equivalent in lieu of the required high school education (pursuant to Section 54-805, Idaho Code).

~~(3-30-01)~~( )

**01. GED Test.** The General Educational Development (G.E.D.) Tests approved by the Department of Education, when an applicant receives an average cutting score of not less than forty-five (45), with no category below a cutting score of forty (40).

(3-30-01)

**02. Equivalent Test.** Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement.

(5-3-03)

**03. Degrees.** An associates, bachelors, or graduate degree from an accredited college or university.

( )

**(BREAK IN CONTINUITY OF SECTIONS)**

### **400. REQUIREMENTS FOR LICENSURE BY EXAMINATION - GENERAL. (RULE 400).**

**01. Requirements.** Applicants for license by examination must complete an application (Refer to Rule 200) and file it with the Board, along with proof of successfully passing

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the approved examination with a score of at least seventy-five percent (75%) and a completed certificate of graduation submitted to the Board by the school. (7-1-97)( )

**02. If Applicant Is From Another State.** If applicant is from another state, territory, possession, or country, and is ineligible for license by endorsement, proof of having a current license in good standing and instruction equivalent to the foregoing requirements must be submitted to the Board (Refer to Rule 200). (3-30-01)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 450. EXAMINATIONS - GENERAL (RULE 450).

Examination for licensure shall consist of both a practical and written examination for each of those disciplines included in Chapter 8, Title 54, Idaho Code. (5-3-03)

**01. Dates and Places.** (7-1-97)

**a.** Examinations for licensure are to be held at the discretion of the Board. (7-1-97)

**b.** The dates and places of examination will be published annually. (7-1-97)

**02. Written Examination.** The written examination consists of two (2) parts: theory and Idaho jurisprudence. (7-1-97)

**a.** The Idaho jurisprudence examination will be a comprehensive written examination that will include Chapter 8, Title 54, Idaho Code and these rules. (5-3-03)

**b.** The theory examination will be the national examination provided by the National Interstate Council of State Boards of Cosmetology (NIC). (5-3-03)

~~i. The theory examination for cosmetology will include all phases of the art of cosmetology, hair dressing, manicuring and pedicuring, facial massage, and sanitation. (5-3-03)~~

~~ii. The theory examination for electrology will cover all phases of the art of electrology and sanitation. (5-3-03)~~

~~iii. The theory examination for esthetics will cover all phases of the art of skin care and sanitation. (5-3-03)~~

~~iv. The theory examination for nail technology will cover all phases of the art of manicuring, artificial nails, and sanitation. (5-3-03)~~

~~v. The theory examination for haircutter will cover all phases of the art of haircutting and sanitation. (3-19-07)~~

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~~vi. The theory examination for an instructor will cover all phases of the applicant's ability to teach cosmetology, nail technology, esthetics or electrology, and sanitation. (5-3-03)~~

**03. The Practical Examination.** The practical examination will be the NIC examination specific to the discipline for which licensure is sought. (5-3-03)

~~a. Oral Test. As authorized by Section 54-810, Idaho Code, the examiners may direct questions to individual examinees during the course of the practical examination. (7-1-97)~~

~~b. Supplies. Each applicant is required to bring adequate supplies and materials for the practical examination. Detailed information will be provided upon notification of acceptance for examination. (7-1-97)~~

**04. Failure to Pass Examination.** (7-1-99)

**a.** The practical examination is failed when an applicant obtains an average score below seventy-five percent (75%). Reexamination shall consist of the entire examination. (7-1-98)

**b.** Written examination is failed when the applicant obtains a score of below seventy-five percent (75%) on the national theory examination or the Idaho jurisprudence examination. Reexamination shall consist of the written entire examination ~~on the portion or portions failed.~~ (7-1-97)( )

~~**05. Eligibility for Reexamination.** A new application must be filed with the Board. The prescribed fee must accompany said application. (7-1-97)~~

~~**a.** Additional instruction required to qualify for the practical reexamination shall be as follows: (5-3-03)~~

~~i. An applicant failing on the first practical examination attempt and on all subsequent attempts shall complete a full review of the proper practical procedures for those service applications in the discipline for which licensure is sought as outlined in Section 54-808(6), Idaho Code. The applicant must also sign an affidavit attesting to the completion of the review. The review and affidavit shall constitute proof of required additional instruction prior to reexamination. (3-19-07)~~

~~ii. The Board may, following a review of previous examination scores, require any applicant to obtain additional instruction in a school of cosmetology. (3-19-07)~~

~~**b.** Additional instruction required to qualify for the written reexamination shall be as follows: (5-3-03)~~

~~i. An applicant failing on the first written examination attempt and on all subsequent attempts in either the theory or Idaho jurisprudence examination shall complete a full review as applicable to the area or areas of failure, of either the proper theoretical procedures for the discipline and those service applications for which licensure is sought as outlined in Section 54-808(6), Idaho Code, or of the Idaho Laws and Rules governing the licensure and practice of those~~

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~~disciplines included in Chapter 8, Title 54, Idaho Code. The applicant must also sign an affidavit attesting to the completion of the review. The review and affidavit shall constitute proof of required additional instruction prior to the first reexamination only.~~ (3-19-07)

~~ii. The Board may, following a review of previous examination scores, require any applicant to obtain additional instruction in a school of cosmetology.~~ (3-19-07)

~~**06. Termination.** All application records in the bureau of applicants who have not qualified for reexamination within five (5) years of notification of failure in any examination under the Cosmetology Law will be terminated and destroyed.~~ (7-1-97)

**451. -- 47499. (RESERVED).**

### ~~**475. MODELS FOR EXAMINATION (RULE 475).**~~

~~**01. Appropriate Model.** Applicants scheduled for an examination must bring an appropriate model. Models may be human or mannequin, depending upon the specific examination. If a mannequin is required, it must be treated in all respects, the same as a live model.~~ (7-1-97)

~~**02. Models Must Not Be Students.** Models must not be students in any school or apprentice in any establishment, nor licensed under the Cosmetology Law.~~ (7-1-97)

~~**03. Models Must Be Able to Remain Until Conclusion of the Examination.**~~ (7-1-97)

~~**04. Models Cannot Be Candidates.** Models cannot be candidates for the examination who may be examined on another day.~~ (7-1-97)

~~**476.—478. (RESERVED).**~~

### ~~**479. MODELS FOR THE COSMETOLOGY EXAMINATION (RULE 479).**~~

~~**01. Human Models.** Human models are mandatory for the facial portion of the cosmetology examination.~~ (3-8-02)

~~**02. Mandatory Mannequins for Examination.** Except as set forth in Rule 479.01, mannequins and mannequin hands are mandatory for all portions of the cosmetology examination and must be treated in all respects, the same as a live model.~~ (3-8-02)

~~**480.—482. (RESERVED).**~~

### ~~**483. MODELS FOR THE ELECTROLOGY EXAMINATION (RULE 483).**~~

~~Hair removal will be demonstrated directly on the Examiners.~~ (7-1-99)

~~**484.—486. (RESERVED).**~~

### ~~**487. MODELS FOR THE ESTHETICS EXAMINATION (RULE 487).**~~

~~**01. Human Models for Skin Care.** Human models will be used for the skin care~~

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~~demonstration.~~ (7-1-97)

~~02. Human Models. Human models must be people to whom makeup may be applied.~~  
(7-1-97)

~~488.—490. (RESERVED).~~

~~491. MODELS FOR THE NAIL TECHNOLOGY EXAMINATION (RULE 491).~~

~~01. Mannequin Hands for Manicure. Mannequin hands are mandatory for all portions of the nail technology examination and must be treated in all respects, the same as a live model.~~  
(3-20-04)

~~492.—499. (RESERVED).~~

### (BREAK IN CONTINUITY OF SECTIONS)

### 550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY (RULE 550).

Section 54-808, Idaho Code, provides for the teaching of electrology in cosmetology schools.  
(3-20-04)

**01. Board Approval.** The Board may approve a school to teach electrology who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology.  
(7-1-99)

**02. Minimum Square Footage.** Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students.  
(7-1-97)

**03. Required Equipment.** Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students.  
(7-1-97)

a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)

b. Two (2) brands of machines (one (1) with three (3) method capability) Galvanic, Thermolysis, and Blend.  
(7-1-97)

c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)

d. Two (2) swing arm lamps with magnifying lens. (7-1-97)

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- e. Two (2) magnifying glasses. (7-1-97)
  - f. Tweezers. (7-1-97)
  - g. One (1) basin with approved water source. (7-1-97)
  - h. Necessary sanitation equipment for implements. (7-1-97)
  - i. Closed storage cabinet. (7-1-97)
- 04. Kit.** Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. (7-1-99)
- 05. Electrologist Instructor/Student Ratio.** Schools have at least one (1) licensed electrologist instructor for every six (6) students or portion thereof, being trained therein. (7-1-99)
- 06. Records Required.** Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)
- 07. Record of Instruction.** A record of all operations completed by each student shall be maintained and include the following: (3-30-01)
- a. Permanent Removal of Hair (Electrology). (7-1-97)
    - i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology. (3-30-01)
    - ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment. (3-30-01)
    - iii. Electrolysis which shall include the use and study of galvanic current. (3-30-01)
    - iv. Thermolysis which shall include the use and study of high frequency current automatic and manual. (3-30-01)
    - v. A combination of high frequency and galvanic currents. (3-30-01)
    - vi. The study and cause of hypertrichosis. (3-30-01)
  - b. Students may not render any clinical services to patrons until completing at least eighty (80) five percent (5%) of the required hours of instruction in electrology. ~~(7-1-99)~~( )
- 551. -- 559. (RESERVED).**



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### IDAHO BUREAU OF OCCUPATIONAL LICENSES Rules of the Idaho Board of Cosmetology

Docket No. 24-0401-0701  
PENDING RULE

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#### 560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (RULE 560).

Section 54-808, Idaho Code, provides for the teaching of esthetics in cosmetology schools.

(3-20-04)

**01. Board Approval.** The Board may approve a school to teach esthetics who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics.

(7-1-97)

**02. Records Required.** Records required of schools teaching esthetics shall be maintained in accordance with the records required for schools of cosmetology.

(3-30-01)

**a.** Students may not render any clinical services to patrons until completing at least ~~sixty (60)~~ five percent (5%) of the required hours of instruction in esthetics.

~~(7-1-97)~~(\_\_\_\_)

**b.** The recorded operations completed by each student shall be maintained and include the following:

(3-30-01)

i. Massage and Manipulation application of lotions, creams, etc. (3-30-01)

ii. Cosmetics. (3-30-01)

iii. Machine Application: use of mechanical or electrical equipment. (3-30-01)

iv. Bacteriology, Sanitation and sterilization, safety precautions, anatomy and physiology. (3-30-01)

v. Eyebrow arch and hair removal. (3-30-01)

**561. -- 569. (RESERVED).**

#### 570. RULES FOR COSMETOLOGY SCHOOLS TEACHING NAIL TECHNOLOGY (RULE 570).

Section 54-808, Idaho Code, provides for the teaching of nail technology in cosmetology schools.

(3-20-04)

**01. Board Approval.** The Board may approve a school to teach nail technology who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach nail technology.

(7-1-97)

**02. Records Required.** (7-1-97)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### IDAHO BUREAU OF OCCUPATIONAL LICENSES Rules of the Idaho Board of Cosmetology

Docket No. 24-0401-0701  
PENDING RULE

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a. Records required of schools teaching nail technology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

b. Students may not render any clinical services to patrons until the student has completed at least ~~forty (40)~~ five percent (5%) of the required hours of instruction. All work done on patrons must be completed by students and supervised by instructors. (~~7-1-97~~)(\_\_\_\_)

**03. Record of Training.** A record of operations completed by each student shall be maintained of the following: (3-30-01)

a. Form nails; (3-30-01)

b. Finished tips; (3-30-01)

c. Wraps and mends; and (3-30-01)

d. Basic manicures and pedicures. (3-30-01)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **700. COSMETOLOGY -- ELECTROLOGY, ESTHETICS, AND NAIL TECHNOLOGY APPRENTICE INSTRUCTION (RULE 700).**

Sections 54-805(6)(c) and 54-807, Idaho Code, provide for the practice of apprentices. (3-30-01)

**01. Cosmetology Apprentices.** There must be at least one (1) licensed cosmetology instructor and one (1) licensed cosmetologist in any cosmetological establishment at all times for each apprentice who is being trained therein. (7-1-99)

a. One (1) instructor shall train no more than three (3) currently registered apprentices. (3-8-02)

b. Each apprentice must also be supervised by a separate licensed cosmetologist. (3-8-02)

**02. Electrology Apprentices.** Apprentice instruction must be obtained under the direct personal supervision of an electrologist instructor. An electrologist instructor may train no more than one (1) apprentice at a time. (3-30-01)

**03. Esthetics Apprentices.** There must be at least one (1) licensed cosmetology instructor or esthetics instructor and one (1) licensed cosmetologist or licensed esthetician in any cosmetological establishment at all times for each apprentice who is being instructed therein. (3-8-02)

**04. Nail Technology Apprentices.** There must be at least one (1) licensed cosmetology instructor or nail technology instructor and one (1) licensed cosmetologist or nail

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### IDAHO BUREAU OF OCCUPATIONAL LICENSES Rules of the Idaho Board of Cosmetology

Docket No. 24-0401-0701  
PENDING RULE

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technician in any cosmetological establishment at all times for each apprentice who is being instructed therein. (3-8-02)

**05. Filing Application.** Application for permit as an apprentice must be made on forms furnished by the Board. (3-30-01)

**06. Application for Apprentice.** The application submitted for an apprentice permit must list the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which an apprentice will serve apprenticeship. (3-30-01)

**07. Prior to Beginning Instruction.** Prior to beginning of instruction, the instructor for any apprenticeship must submit and have Board approval of a curriculum for the entire apprenticeship instruction. (3-30-01)

**08. Application Must Be Accompanied by Proof of Meeting Educational Requirements.** Applications must be accompanied by proof of having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If applicant is a high school graduate, a photostatic copy of the high school diploma may be submitted. A letter written on high school stationery, signed by an officer of the high school, may be forwarded with the application. Such letter shall indicate that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade. Do not send original high school diploma to the Board. (7-1-97)

**09. Submit Proof of Birth.** Apprentices must furnish a copy of their birth certificate or other acceptable proof of birth with application. (7-1-97)

**10. Apprentice Permit.** An apprentice permit must be obtained from the Board before instruction as an apprentice begins. An original apprentice permit shall be dated and valid until such time as said apprentice is no longer enrolled as an apprentice in said establishment. (3-30-01)

**11. Records Required.** Establishments instructing apprentices must maintain records as set forth: (3-30-01)

**a.** For cosmetology apprentice in Subsection 500.05. (7-1-99)

**b.** For electrology apprentice in Subsection 550.06.a.i. (7-1-99)

**c.** For esthetics apprentice in Subsection 560.02. (7-1-99)

**d.** For nail technology apprentice in Subsection 570.02. (7-1-99)

**e.** Apprentices shall not be permitted to render any clinical service to patrons until said apprentice has completed at least five percent (5%) of the required hours of instruction. ( )

**12. Record of Instruction.** Records of the operations completed by each student shall be maintained of the following: (3-8-02)

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### IDAHO BUREAU OF OCCUPATIONAL LICENSES Rules of the Idaho Board of Cosmetology

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Docket No. 24-0401-0701  
PENDING RULE

- a. For cosmetology apprentice in Subsection 500.06. (7-1-97)
- b. For electrology apprentice in Subsection 550.07. (3-30-01)
- c. For esthetics apprentice in Subsection 560.02.c. (7-1-99)
- d. For nail technology apprentice in Subsection 570.03. (7-1-99)

**13. Discontinuance of a Course.** When an apprentice discontinues a course of study, the salon is to complete a Record of Instruction Form with the credited hours completed by the apprentice. This form is to be submitted to the Board. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice permit is automatically canceled and is to be submitted to the Board along with the Record of Instruction. (3-30-01)

**14. Before Resuming Instruction.** Before resuming instruction, after having discontinued a course, an apprentice must file a new application and pay an additional fee. The apprentice must receive a permit before resuming instruction. (3-30-01)

**15. Discontinuance of Establishment Instruction Apprentices.** If a licensed establishment where apprentices are being trained discontinues to operate as a salon, records of instruction covering all apprentices obtaining instruction at the time of discontinuance or prior thereto, must be filed in the office of the Board. (3-30-01)

**16. Out of State Apprenticeship.** Prior to commencing a course of study in an Idaho approved establishment, an apprentice applicant is required to file with the Board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (3-30-01)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES**

### **24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 128 through 131.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 26th day of October, 2007.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste 220  
Boise, ID 83709  
(208) 334-3233 phone  
(208) 334-3945 fax

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**BUREAU OF OCCUPATIONAL LICENSES**  
**State Board of Morticians**

**Docket No. 24-0801-0701**  
**PENDING RULE**

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### **THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-1107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To correct examination requirements for funeral director. Combine funeral and crematory establishment requirements to lessen confusion and add provisions for display of caskets and merchandise to include video, catalogs and electronic depiction.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are formatting and clarification and not new requirements.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 15th day of August, 2007.

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES State Board of Morticians

Docket No. 24-0801-0701  
PENDING RULE

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#### 325. APPROVED EXAMINATION (RULE 325).

Applicants for licensure shall successfully pass the examinations set forth below. (3-16-04)

##### 01. Mortician Examination. The Mortician examination shall consist of: (3-16-04)

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (3-16-04)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

##### 02. Funeral Director. The funeral director examination shall consist of: (3-16-04)

a. The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board's ~~National Board Examination~~; and (3-16-04)( )

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Idaho Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

03. Grading. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-16-04)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT (RULE 450).

All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. ( )

01. ~~Branch or Satellite Facility. A newly licensed establishment operated as a branch or satellite facility must meet the same requirement for licensure as if it were operated~~

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES State Board of Morticians

Docket No. 24-0801-0701  
PENDING RULE

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~~independently. It will be required to provide an operating room and necessary equipment for embalming, a display room for caskets, a chapel where funeral or other religious ceremonies may be held and a room for viewing and visitation.~~ **Contents of Application.** Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following: (7-1-93)( )

- a.** Name and address of owner whether individual or entity; and ( )
- b.** Notarized signature of applicant or authorized agent; and ( )
- c.** Name and license number of responsible licensee; and ( )
- d.** Other such information as the board may require. ( )

**02. Change in Ownership or Location.** Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (7-1-93)

**03. Funeral Establishment.** All funeral establishments shall be required to provide each of the following: ( )

- a.** An operating room and necessary equipment for embalming; ( )
- b.** A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; ( )
- c.** A chapel where funeral or other religious ceremonies may be held; and ( )
- d.** A room for viewing and visitation. ( )

**034. Funeral Firm.** Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (7-1-93)

- a.** The price of the service that the person or persons have selected and what is included therein. (7-1-93)
- b.** The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)
- c.** The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)
- d.** The method of payment. (7-1-93)
- e.** If the quoted price includes a basic component of a funeral or a part thereof which



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES State Board of Morticians

Docket No. 24-0801-0701  
PENDING RULE

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is not desired, then a credit thereof should be granted. (7-1-93)

**05. Crematory Establishment.** All crematory establishments shall be required to provide each of the following: (\_\_\_\_)

**a.** Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; and (\_\_\_\_)

**b.** One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. (\_\_\_\_)

### **451. APPLICATION FOR LICENSE TO OPERATE A CREMATORY (RULE 451) (RESERVED).**

**~~01. Contents of Application.~~** Each applicant for a license to operate a crematory in Idaho shall supply to the Idaho Board of Morticians the following information: (3-16-04)

**~~a.~~** Name and address of corporation or firm; and (3-16-04)

**~~b.~~** Number of retorts; and (3-16-04)

**~~c.~~** Signature of applicant; and (3-16-04)

**~~d.~~** Date of signature. (3-16-04)

**~~02. Forms Issued by the Board.~~** The required "Application for License to Operate a Crematory" will be issued in blank and be made available to applicants by the Board. (3-16-04)

**~~03. Equipment Listing, Drawing Approval and Air Quality Standards.~~** As a part of the initial application for licensure, the applicant must submit the following to the Board: (3-16-04)

**~~a.~~** Detailed information regarding the retort specifically documenting that the retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; (3-16-04)

**~~b.~~** One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances; and (3-16-04)

**~~c.~~** A copy of the permit issued by the Department of Environmental Quality indicating compliance with air quality standards. (3-16-04)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**

**DOCKET NO. 24-1801-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, Idaho Code, and Title XI, federal code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 159 through 167.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 26th day of October, 2007.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste 220  
Boise, ID 83709  
(208) 334-3233 / (208) 334-3945 fax

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Rules of the Real Estate Appraiser Board**

**Docket No. 24-1801-0701**  
**Proposed Rulemaking**

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**THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 29, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-4106, Idaho Code, and Title XI, federal code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Changes will allow applicants currently working on the qualifications for licensure time to come into compliance with the new federal standards. Remove a section that is duplicated and clarify continuing education in compliance with federal requirements.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) b, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Federal requirements under Title XI will change effective January 1, 2008. This change will allow those currently working toward licensure time to come into compliance with the new standards.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because changes are required to meet federal standards under Title XI.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **BUREAU OF OCCUPATIONAL LICENSES Rules of the Real Estate Appraiser Board**

**Docket No. 24-1801-0701  
Proposed Rulemaking**

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comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 29th day August, 2007.

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **010. DEFINITIONS (RULE 10).**

The definitions numbered one through twelve (1-12), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (7-1-93)

**01. Advisory Committee.** A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

**02. Appraisal Foundation.** The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

**03. Appraiser Qualifications Board.** Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

**04. Appraisal Standards Board.** The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

**05. Bureau.** The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (3-13-02)

**06. Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

**07. Classroom Hour.** Fifty (50) minutes out of each sixty (60) minute hour. (7-1-93)

**08. Field Real Estate Appraisal Experience.** Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgement, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

**09. FIRREA.** Title XI, Financial Institutions Reform, Recovery and Enforcement Act

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Real Estate Appraiser Board

Docket No. 24-1801-0701  
Proposed Rulemaking

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of 1989 was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (7-1-93)

**10. Nationally Recognized Appraisal Organization.** An appraisal organization which is a ~~member~~ sponsor of The Appraisal Foundation. (~~7-1-93~~)( )

**11. Real Estate.** In addition to the previous definition in Section 54-4104(7), Idaho Code will also mean an identified parcel or tract of land, including improvements, if any. (7-1-93)

**12. Real Property.** In addition to the previous definition in Section 54-4104(8), Idaho Code will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (7-1-93)

**13. Residential Unit.** Real estate with a current highest and best use of a residential nature. (7-1-93)

**14. Specialized Appraisal Services.** Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments." Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)

**15. Uniform Standards of Professional Appraisal Practice or USPAP.** Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

**16. USPAP Course.** For the purposes of licensure and license renewal, any reference to the approved USPAP course shall mean the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **250. REQUIREMENTS FOR LICENSURE (RULE 250).**

All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. (4-11-06)

**01. Education.** If an individual has completed the education requirements on or before December 31, 2007, the individual must submit a complete application to the board before January 1, 2011. If an individual has not completed their educational requirement on or before December 31, 2007, or submits an application on January 1, 2011 or later, the individual must complete the educational requirements which became effective January 1, 2008 and any

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subsequent requirements adopted prior to the individual's application date. ~~Effective July 1, 2006,~~  
~~#~~Hours will be credited only for courses with content that follows the Required Core Curriculum  
as outlined by the Appraisal Qualification Board. (4-11-06)( )

**a.** Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. (4-11-06)

**b.** Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Courses approved by ~~the~~ Appraisal Qualifications Board. (8-20-04)( )

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

**c.** Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

**d.** Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. (4-11-06)

**e.** Various appraisal courses may be credited toward the classroom hour education requirement. Applicants must demonstrate that their education involved coverage of those topics listed in Subsection 250.01.e. that are required for the license classification for which application is being made. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties. (4-11-06)

i. Basic appraisal principles. (4-11-06)

ii. Basic appraisal procedures. (4-11-06)

iii. The fifteen (15) hour national USPAP course. (4-11-06)

iv. Market analysis and highest and best use. (4-11-06)

v. Appraiser site valuation and cost approach. (4-11-06)

vi. Sales comparison approach. (4-11-06)

vii. Sales income approach. (4-11-06)

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- viii. Report writing and case studies. (4-11-06)
- ix. Statistics, modeling and finance. (4-11-06)
- x. Advanced applications and case studies. (4-11-06)
- xi. Appraisal subject matter electives. (4-11-06)
- f.** Advanced courses will be those courses for which an introductory or basic course is required as a prerequisite. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements. (4-11-06)
- 02. Experience.** (7-1-97)
  - a.** The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)
  - b.** All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. (4-11-06)
  - c.** Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. (4-11-06)
  - d.** Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (4-11-06)
  - e.** Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (4-11-06)
    - i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the type of property, address of the property, report date, description of work performed, and number of work hours. (4-11-06)
    - ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)
    - iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. (4-11-06)
  - f.** Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience in order to receive experience credit. (4-11-06)

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**03. Examination.** Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

### (BREAK IN CONTINUITY OF SECTIONS)

**276. -- 2982. (RESERVED).**

**~~299. REQUIREMENTS FOR LICENSURE/CERTIFICATION (RULE 299).~~**

~~All applicants for licensure/certification in any real estate appraiser classification must meet the following requirements in addition to those requirements set forth in Sections 300, 350, and 400 below. All applicants for trainee registration must meet the following requirements regarding education set forth in Section 299 in addition to those requirements set forth in Section 430.~~

~~(3-3-02)~~

~~**01. Examination.** Successful completion of an examination approved by the Board pursuant to the guidelines of the Appraisal Foundation.~~

~~(7-1-97)~~

~~**02. Education.**~~

~~(7-1-97)~~

~~**a.** Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes an examination pertinent to the educational offering.~~

~~(7-1-97)~~

~~**b.** Credit for the classroom hour requirement may be obtained from the following:~~

~~(7-1-97)~~

~~**i.** Colleges or Universities.~~

~~(7-1-97)~~

~~**ii.** Community or Junior Colleges.~~

~~(7-1-97)~~

~~**iii.** Courses approved by the Appraisal Qualifications Board.~~

~~(3-30-07)~~

~~**iv.** State or Federal Agencies or Commissions.~~

~~(7-1-97)~~

~~**v.** Other providers approved by the Board.~~

~~(7-1-97)~~

~~**e.** Only those courses completed preceding the date of application will be accepted for meeting educational requirements.~~

~~(3-18-99)~~

~~**d.** Course credits which are obtained from the course provider by challenge examination without attending the course will not be accepted.~~

~~(3-18-99)~~

~~**e.** Various appraisal courses may be credited toward the classroom hour education~~



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~~requirement. Applicants must demonstrate that their education involved coverage of all topics listed below. Licensed Residential and Certified Residential must include emphasis in one (1) to four (4) unit residential properties; Certified General must include emphasis in nonresidential properties.~~ (7-1-97)

- ~~i. Influences on Real Estate Value. (7-1-97)~~
- ~~ii. Legal Considerations in Appraisal. (7-1-97)~~
- ~~iii. Types of Value. (7-1-97)~~
- ~~iv. Economic Principles. (7-1-97)~~
- ~~v. Real Estate Markets and Analysis. (7-1-97)~~
- ~~vi. Valuation Process. (7-1-97)~~
- ~~vii. Property Description. (7-1-97)~~
- ~~viii. Highest and Best Use Analysis. (7-1-97)~~
- ~~ix. Appraisal Statistical Concepts. (7-1-97)~~
- ~~x. Sales Comparison Approach. (7-1-97)~~
- ~~xi. Site Value. (7-1-97)~~
- ~~xii. Cost Approach. (7-1-97)~~
- ~~xiii. Income Approach. (7-1-97)~~
- ~~xiv. Valuation of Partial Interests. (7-1-97)~~
- ~~xv. Appraisal Standards and Ethics. (7-1-97)~~

~~f. Advanced courses will be those courses for which an introductory or basic course is required. Typically classes titled "Introductory," "Basic," or "Principles" will not be accepted for advanced requirements.~~ (7-1-97)

### ~~03. Experience. (7-1-97)~~

~~a. The work product claimed for experience credit must be in conformity with the USPAP or shall be in compliance with generally accepted standards which were in effect at the time those appraisals were prepared. (3-13-02)~~

~~b. On or after July 1, 2003, appraisal experience must be obtained as a registered trainee or as a licensed or certified appraiser. A year of experience is equal to a minimum of one thousand (1,000) hours worked during a consecutive twelve (12) month period. Regardless of the~~

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~~number of experience hours submitted or obtained during any twelve (12) month period, no more than one thousand (1,000) of those hours may be credited to meet this requirement. Hours obtained in excess of one thousand (1,000) hours during any consecutive twelve (12) month period may not be credited or carried over into the next twelve (12) month period. (3-13-02)~~

~~e. Only experience gained during the five (5) years preceding application will be considered for evaluation. (7-1-97)~~

~~d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, tax appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (3-18-99)~~

~~e. An appraiser applying for certification/licensure must verify his completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (7-1-97)~~

~~i. To demonstrate experience the Board requires submission of a log which details hours claimed for experience credit. (7-1-97)~~

~~ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)~~

~~iii. The Board may request submission of written reports or file memoranda which substantiate an applicant's claim for experience credit. (7-1-97)~~

~~f. Ad valorem tax appraisers who demonstrate that they use techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.10, Field Real Estate Appraisal Experience will receive experience credit. (7-1-97)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 350).

The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

**01. Education.** Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred twenty (120) classroom hours of courses in subjects related specifically to real estate appraisal

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that have been approved by the board. Each applicant must have successfully completed not less than ninety (90) classroom hours of study related to those topics outlined under Subsection 250.01.e., the basic principles of real estate appraising and thirty (30) classroom hours of advanced residential or non-residential specialized courses relating to the topics specified at Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; will be credited to the classroom hour requirement. Beginning on January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: (3-30-07)

**a.** Hold an Associate Degree or higher from an accredited college or university or document successful completion of no less than twenty-one (21) college semester credit hours in English Composition, Principles of Economics (micro or macro), Finance, Algebra, Geometry or higher mathematics, Statistics, ~~Introduction to~~ Computers Science, and Business or Real Estate Law; and (4-11-06)( )

**b.** Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser or hold a current license as a Licensed Residential Real Estate Appraiser; and (4-11-06)

**c.** Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

**i.** Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

**ii.** Advanced Residential Applications and Case Studies - not less than fifteen (15) hours specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (4-11-06)  
3

**iii.** Appraisal Subject Matter Electives - not less than twenty (20) hours and may include hours over the minimum shown in Subsection 350.01.c. (4-11-06)

**02. Experience.** Experience is a prerequisite to sit for the licensure examination: (4-11-06)

**a.** Document two thousand five hundred (2,500) hours of appraisal experience in no less than twenty-four (24) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

**b.** Two thousand (2,000) hours of the experience shall be from residential field appraisal experience. The balance of five hundred (500) hours may include non field experience, refer to Subsection 250.02.d. (4-11-06)

**351. -- 399. (RESERVED).**

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#### 400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA (RULE 400).

The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section ~~299~~50. Subsequent to being certified, an individual must meet the continuing education requirement. ~~(7-1-97)~~(\_\_\_\_)

**01. Education.** Prior to January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho State Certified General Real Estate Appraiser, each applicant shall present evidence satisfactory to the board of having successfully completed not less than one hundred eighty (180) classroom hours of courses in subjects related specifically to real estate appraisal approved by the board. Each applicant must have successfully completed not less than one hundred sixty (160) classroom hours of study related to those topics outlined under Subsection 250.01.e. Not less than fifteen (15) and no more than twenty (20) classroom hours of studies within the last five (5) years specifically relating to the USPAP, and Code of Ethics; and one hundred (100) classroom hours of advanced non residential specialized courses relating to the topics specified at Subsection 250.01.e. Beginning on January 1, 2008, as a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: (3-30-07)

**a.** Hold a Bachelors Degree or higher from an accredited college or university or document successful completion of no less than thirty (30) college semester credit hours in English Composition, Micro Economics, Macro Economics, Finance, Algebra, Geometry or higher mathematics, Statistics, ~~Introduction to~~ Computers Science, and Business or Real Estate Law, and two (2) elective courses in accounting, geography, ageconomics, business management, or real estate; and ~~(4-11-06)~~(\_\_\_\_)

**b.** Document registration as an Appraiser Trainee or licensure as a Licensed Residential Real Estate Appraiser or licensure as a Certified Residential Real Estate Appraiser; and (4-11-06)

**c.** Document the successful completion of not less than two hundred ten (210) classroom hours of courses in subjects related to real estate appraisal as follows: (4-11-06)

**i.** Statistics, Modeling and Finance - not less than fifteen (15) hours specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (4-11-06)

**ii.** General Appraiser Market Analysis and Highest and Best Use - not less than thirty (30) hours; and (4-11-06)

**iii.** General Appraiser Sales Comparison Approach - not less than thirty (30) hours specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (4-11-06)

**iv.** General Appraiser Site Valuation and Cost Approach - not less than thirty (30) hours; and (4-11-06)

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v. General Appraiser Income Approach - not less than sixty (60) hours specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (4-11-06)

vi. General; Appraiser Report Writing and Case Studies - not less than thirty (30) hours specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (4-11-06)

**02. Experience.** Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than thirty (30) months (See Subsection 250.02.). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-06)

b. One thousand five hundred (1,500) hours of the experience must be nonresidential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of nonfield experience as outlined in Subsection 250.02.d. (4-11-06)

#### **401. CONTINUING EDUCATION (RULE 401).**

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

**01. Purpose of Continuing Education.** The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

**02. Hours Required.** The equivalent of fifteen (15) classroom hours of instruction in courses or seminars during each year prior to renewal is required. (3-20-04)

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualification Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-6-05)

d. Once every two (2) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend an approved seven (7) hour USPAP update course or the equivalent.

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**BUREAU OF OCCUPATIONAL LICENSES**  
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(3-30-07)

**03. Credit for Appraisal Educational Processes and Programs.** Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. ~~(7-1-97)( )~~

**04. Credit for Attending the Licensure Board Meetings.** Continuing education credit may be granted ~~once each year~~ for a maximum of two (2) hours each renewal period for time spent attending one (1) Board meetings ~~of no less than two (2) hours~~. Members of the board shall not be entitled to continuing education credit for board service. ~~(3-30-07)( )~~

**05. Requirement When a Certificate/License Is Cancelled.** For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. (3-30-07)

**SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

**24.21.01 - RULES OF THE IDAHO STATE CONTRACTORS BOARD**

**DOCKET NO. 24-2101-0701**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5207, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2007 Idaho Administrative Bulletin, Vol. 07-8, pages 126 and 127.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 26th day of October, 2007.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste 220  
Boise, ID 83709  
(208) 334-3233 / (208) 334-3945 fax

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***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED RULE***

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Rules of the Idaho State Contractors Board**

**Docket No. 24-2101-0701**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is **June 14, 2007**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-5207, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This addition to the rules would allow the Board to consider felony convictions when determining eligibility for registration in order to protect the public.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason:

**To protect the public by allowing the board to consider felony convictions when reviewing applications for registration.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is to assist the board in the application process and protect the public.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2007.



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Idaho State Contractors Board

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Docket No. 24-2101-0701  
PENDING RULE

DATED this 28th day of June, 2007.

#### *THE FOLLOWING IS THE TEXT OF THE PENDING RULE*

**151. -- 1764. (RESERVED).**

**165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION (RULE 165).**

Applicants for a registration shall meet the following qualifications in addition to those set forth in Section 54-5210, Idaho Code and these rules. ( )

**01. Felony Conviction.** Not have been convicted of any felony in a state or federal court; provided the applicant may make written request to the board for an exemption review to determine the applicant's suitability for registration, which the board shall determine in accordance with the following: ( )

**02. Exemption Review.** The exemption review shall consist of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for registration. The board may, at its discretion, grant an interview of the applicant. ( )

- a.** During the review, the board shall consider the following factors or evidence: ( )
- i.** The severity or nature of the felony; ( )
  - ii.** The period of time that has passed since the felony under review; ( )
  - iii.** The number or pattern of felonies or other similar incidents; ( )
  - iv.** The circumstances surrounding the crime that would help determine the risk of repetition; ( )
  - v.** The relationship of the crime to the registered practice of construction; and ( )
  - vi.** The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. ( )
- b.** The applicant shall bear the burden of establishing his current suitability for registration. ( )

**03. Fraud in Application Process.** The registration application and supporting documents are free from any fraud or material misrepresentations. ( )

**166. -- 174. (RESERVED).**

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 24 - IDAHO BUREAU OF OCCUPATIONAL LICENSES**

### **24.22.01 - RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD**

**DOCKET NO. 24-2201-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-5310, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 168 and 169.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cherie Simpson at (208) 334-3233.

DATED this 26th day of October, 2007.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste 220  
Boise, ID 83709  
(208) 334-3233 / (208) 334-3945 fax

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Liquefied Petroleum Gas Safety Board**

**Docket No. 24-2201-0701**  
**PENDING RULE**

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### THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 54-5310, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Add dated edition for NFPA 58 incorporated by reference, add requirement for certification of general liability insurance as application requirement and create a section for general liability insurance requirements per statute passed during the 2007 session, and clarify the inspection rules.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the insurance requirement is necessary to comply with statute change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of August, 2007.

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### BUREAU OF OCCUPATIONAL LICENSES Liquefied Petroleum Gas Safety Board

Docket No. 24-2201-0701  
PENDING RULE

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#### 004. INCORPORATION BY REFERENCE (RULE 4).

The document titled National Fire Protection Association Code 58, 2004 Edition, commonly known as NFPA 58, is herein incorporated by reference and is available ~~from~~ at the Board's office and on the Board web site. (3-30-06)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 350. FACILITY LICENSURE (RULE 350).

##### 01. Facility Licensure and Operation Requirements. (3-30-06)

a. Application for a facility license shall be made on forms available from the Bureau and shall include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications shall be submitted to the Board for approval and a license must be issued before a new facility may open for business; (3-30-06)(\_\_\_\_)

b. Each facility application shall clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-30-06)

c. Each facility shall meet all requirements of NFPA 58. (3-30-06)

##### 02. Facility Changes in Ownership or Location. (3-30-06)

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. (3-30-06)

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-30-06)

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-30-06)

d. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the facility license shall be submitted to the Bureau. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-30-06)

#### 351. -- ~~3754~~. (RESERVED).

#### 355. GENERAL LIABILITY INSURANCE REQUIREMENT (RULE 355).

As set forth in 54-5308(1)(j), Idaho Code, no facility license will be issued without a certificate

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **BUREAU OF OCCUPATIONAL LICENSES Liquefied Petroleum Gas Safety Board**

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showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. ( )

**01. Original Facility License Application.** An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. ( )

**02. Renewal of Facility License.** All licenses being renewed must certify that the facility holds a current general liability insurance policy. ( )

**03. Audit of Liability Insurance.** The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. ( )

**356. -- 374. (RESERVED).**

### **375. INSPECTION RULES (RULE 375).**

All facilities shall be subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. (~~3-30-06~~)( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 28 - IDAHO DEPARTMENT OF COMMERCE**

### **28.02.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 28-0203-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 203 through 208.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cathy Bournier, 208 334-2670.

DATED this 13th day of November, 2007.

Cathy Bournier, Grant Analyst  
Idaho Department of Commerce, Division of Tourism Development  
700 W State St, Boise, ID  
PO Box 83720, Boise, ID 83720-0094  
208 334-2470 / Fax 208 334-2631

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***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED RULE***

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**DEPARTMENT OF COMMERCE**  
**Idaho Regional Travel and Convention Grant Program**

**Docket No. 28-0203-0701**  
**PENDING RULE**

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**EFFECTIVE DATE:** The effective date of the temporary rule is August 3, 2007.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717 and 67-4718, Idaho Code

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**The purpose of this rulemaking is to update language and concepts that related to previous changes and advances in technology. It is also necessary to update outdated language and to bring consistency between rules.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) and 67-4702, Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**The inconsistencies in language cause questions and confusion in the administration of existing Idaho Travel Council grants These rule changes confer a benefit.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes proposed do not substantially change the existing rules, but remove outdated and inconsistent content.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Cathy Bournier, 208 334-2670.

Anyone may submit written comments regarding the proposed rulemaking. All written

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**DEPARTMENT OF COMMERCE**  
**Idaho Regional Travel and Convention Grant Program**

**Docket No. 28-0203-0701**  
**PENDING RULE**

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comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this August 30, 2007.

### ***THE FOLLOWING IS THE TEXT OF THE PENDING RULE***

#### **010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.**

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (5-3-03)

**01. Advertising.** Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (5-3-03)

- a. Objective and placement of advertising. (2-22-93)
- b. Geographic target audience. (2-22-93)
- c. Demographic target audience. (2-22-93)
- d. Fulfillment plans. (2-22-93)

**02. Hospitality Training.** Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (~~2-22-93~~)( )

**03. Convention Promotion.** Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

**04. Site Visits/Familiarization Tours (FAMS).** Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for one hundred percent (100%) of travel and lodging expenses for FAM participants. Grant funds can also be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Grant funds cannot be used to pay for alcoholic beverages and attractions. FAMS must be coordinated



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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and approved in writing by the Department of Commerce.

(3-30-07)

**05. Fulfillment.** Ranked Primary. Includes expenses directly related to implementing ITC funded plan. ~~Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line.~~ Once the remaining elements of the grant are awarded, an additional ten percent (10%) of the total award, excluding any amount awarded for an audit, will be awarded for fulfillment. ~~(3-30-07)( )~~

**06. Travel and Trade Shows.** Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

**07. ~~Slide Shows/Videos.~~** Ranked Tertiary. Applicant must state in the application the purpose of the ~~slide show/video~~, how it will be used to promote the area, and how the ~~slide show/video~~ ties in with the applicant's overall marketing. ~~(2-22-93)( )~~

**08. Marketing Research.** Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

**09. Capital Outlay.** Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. ~~No more than one (1) piece of any like equipment per Region.~~ ~~(7-1-98)( )~~

**a.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

**b.** Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

**c.** Use. (2-22-93)

**i.** Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

**ii.** The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

**iii.** The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

**iv.** When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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### **DEPARTMENT OF COMMERCE Idaho Regional Travel and Convention Grant Program**

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the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

**d.** Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

i. Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

ii. The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

iv. Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

**e.** Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

i. Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

**f.** Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over five thousand dollars (\$5,000) as outlined in the Bid Process section of the administrative rules. (3-20-04)

**g.** Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

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- ~~iii.~~ ~~Movie Projector.~~ (~~2-22-93~~)
- ~~iv.~~ ~~Slide Projector.~~ (~~2-22-93~~)
- ~~viii.~~ Computer Hardware per ITC guidelines. (5-3-03)
- ~~iv.~~ Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

**h.** Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding ~~five~~ twenty thousand dollars (\$~~5~~20,000) will not be exempt from the travel grant program's bid process. (~~3-20-04~~)(    )

**i.** Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 200. MULTI-REGIONAL PROMOTION.

Grants that combine the resources of two (2) or more non-profit local/special interest organizations in different regions, in an effort to promote both regions, are encouraged and supported by the ITC. These grants are called multi-regional and require a ~~five~~ twelve and one-half percent (~~50~~12.5%) cash match. They must meet the following guidelines: (~~2-22-93~~)(    )

**01. Non-Profit Submittal.** A non-profit organization in each of the affected regions must submit a grant application to the ITC/IDC. Such application must specify that the request is a multi-regional request and show a regional liaison. To improve chances for a grant award, the applicant should show support from their respective region. Additionally, each grant application must include: (2-22-93)

**a.** State of Idaho Certificate of Incorporation and Articles of Incorporation from the Secretary of State or a letter of determination from the Internal Revenue Service. (7-1-98)

**b.** Notice of Employer Identification number assigned by the IRS. (7-1-98)

**02. Memorandum of Agreement.** A written memo of agreement must be included with each multi-regional grant application designating each regional key player and describing their role. (2-22-93)

**03. Subcontract.** Upon receipt of the grant award, the affected organizations must either subcontract with one (1) of the other organizations or subcontract with an independent contractor to perform the work outlined in the application. (2-22-93)

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### (BREAK IN CONTINUITY OF SECTIONS)

#### 203. INELIGIBLE PROJECTS.

The following grant activities will not be considered for funding: (2-22-93)

**01. Administration Expense.** Rent, phone, supplies, postage, photocopying, travel or other overhead associated with the ongoing normal administrative functions of any organization are not eligible. Expenses directly related to implementing ITC funded plans, ~~i.e., staff time, rent, and travel, will not be reimbursable to the grantee, but may be used as match~~ are to be paid out of the Administrative/Fulfillment amount awarded as ten percent (10%) of the total award, excluding any amount awarded for an audit. ~~A ceiling is placed on administrative expenses of up to ten percent (10%) of the ITC funds awarded.~~ (2-22-93)( )

**02. Brochures.** Printing of brochures and materials that does not deal strictly with travel or convention promotion is not eligible. (2-22-93)

**03. Alternative Funding Sources.** Printing of materials that may have alternative funding sources (i.e., regular chamber of commerce budgets) or that have been funded previously with the agency's own funds. (2-22-93)

**04. Salary or Personnel.** Salary or personnel expenses or expenses relative to personnel costs involving grant writing or administration are not eligible. (2-22-93)

**05. Funding for Partial Projects.** The ITC will not fund partial projects phased in over one (1) or more grant cycles. Projects must be completed during the contract period. This excludes fulfillment. (2-22-93)

**06. Capital Outlay.** Office equipment, signs, (other than the approved rest area signing) display cases, expenditures for buildings, additions or improvements to buildings will not be considered for funding. (2-22-93)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 209. BID PROCESS.

**01. Bids.** Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over twenty thousand dollars (\$20,000). (3-30-07)

**02. Documentation.** Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

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- a. Item or service to be purchased. (7-1-98)
- b. Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and twenty thousand dollars (\$20,000). This consists of contacting three (3) vendors. Formal bids are required for projects greater than twenty thousand dollars (\$20,000). This requires three (3) written bids from vendors. (3-30-07)
- c. List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)
- d. Justify why the successful vendor was selected. (2-22-93)
- e. Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)
- ~~f. If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 222. PLAN SELECTION.

The Idaho Travel Council is responsible for the selection of plans to be awarded. Selection of Regional Travel and Convention Grants is as follows: (2-22-93)

**01. Committee Presentation.** At a regularly scheduled ITC meeting, applications for the Regional Travel and Convention Grant Program are presented, discussed and voted upon by the Idaho Travel Council. Grant applicants may be present to comment and answer questions. (2-22-93)

**02. Contract Preparation.** Once the Idaho Travel Council has selected plans to be funded, the Department of Commerce will notify all applicants, by letter, of their funding status. (2-22-93)

a. All contracts will be signed for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (2-22-93)

b. If applicable, special conditions of funding will be outlined. (2-22-93)

c. The grant will take effect upon the date of award. Grant monies cannot be obligated or expended until that date. No expenditures can be reimbursed until the contract is signed by the director of the Department of Commerce. (2-22-93)

d. Extensions and amendments shall be discouraged. However, in the event of an

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extension or amendment, the grantee may shift funds between line items according to the following schedule, ~~up to twenty five percent (25%) of the total ITC dollars awarded, between line items, not to exceed ten thousand dollars (\$10,000)~~ during the entire grant cycle.

<u>Grants of</u>	<u>May Shift</u>	
<u>between \$1.00 and \$100,000</u>	<u>An amount equal to 25% of the grant</u>	<u>Not to exceed \$10,000</u>
<u>Between \$100,001 and \$250,000</u>	<u>An amount equal to 10% of the grant</u>	<u>Not to exceed \$25,000</u>
<u>of \$250,001 and over</u>	<u>An amount equal to no more than 5% of the grant</u>	<u>Without ITC Approval</u>

( )

e. To shift funds in excess of the limits in Subsection 222.02.d., ~~the~~ grantee must complete the appropriate amendment form, and ~~all~~ receive the approval of the regional ITC members will vote on each amendment, for dollar amounts in excess of ten thousand dollars (\$10,000). From the Department of Commerce, extensions of up to ninety (90) days can be granted. ~~(3-20-04)~~( )

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 33 - REAL ESTATE COMMISSION**

### **33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**

**DOCKET NO. 33-0101-0702**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and Section 54-2027(6), Idaho Code, as amended by Senate Bill 1109.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the July 4, 2007 Idaho Administrative Bulletin, Vol. 07-7, pages 82 through 84.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeane Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster (208) 334-3285 ext 115

Dated this 20th day of August, 2007.

Jeanne Jackson-Heim  
Executive Director  
Agency: Idaho Real Estate Commission  
Physical Address: 633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
(208) 334-3285; (208) 334-2050 (fax)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**REAL ESTATE COMMISSION**  
**Rules of the Idaho Real Estate Commission**

**Docket No. 33-0101-0702**  
**PENDING RULE**

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***THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE***

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2007**.

**AUTHORITY:** In compliance with Sections 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 54-2007, Section 54-2027(6), Idaho Code, as amended by S 1109.

**PUBLIC HEARING:** Public hearing concerning this rulemaking will be as follows:

**Thursday, July 26, 2007**  
**10:00 a.m.**  
**The Idaho Real Estate Commission**  
**633 North Fourth Street**  
**Boise, Idaho 83702**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for adopting a temporary rule:

**Effective July 1, 2007, (and as a result of Senate Bill 1109), the license law will prohibit real estate education providers from offering, for licensing credit, any course that is being taught below the “minimum teaching standards established by the Commission.” This rule establishes those minimum standards.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**This rule change is necessary to comply with deadlines in amendments to governing law, specifically, Senate Bill 1109, which inferentially requires that the Commission establish minimum teaching standards. The law becomes effective July 1, 2007.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### REAL ESTATE COMMISSION Rules of the Idaho Real Estate Commission

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must be directed to the undersigned and must be delivered on or before July 25, 2007.

DATED this 29th day of May, 2007.

### *THE FOLLOWING IS THE TEXT OF THE PENDING RULE*

403. -- ~~999499~~. (RESERVED).

### *RULES 500 THROUGH 599 – EDUCATION TEACHING STANDARDS*

#### **500. MINIMUM TEACHING STANDARDS OF THE COMMISSION.**

All courses offered for credit by a certified provider shall be taught in accordance with the following standards of the Real Estate Commission: ( )

**01. Certification Requirement.** A course required to be taught by a Commission-certified or Commission-approved instructor shall be taught only by an instructor that is currently approved or certified for that course; ( )

**02. Outlines and Curriculum.** A course must be taught in accordance with the course outline or curriculum approved by the Commission; ( )

**03. Attendance Requirement.** The course instructor shall adhere to the Commission's written attendance policy and shall submit credit hours only for students who have successfully met the attendance requirements for which the course was approved. ( )

**04. Product Promotion and Recruitment.** The course instructor shall adhere to the Commission's written policies restricting product promotion and recruitment activities in the classroom; ( )

**05. Professional Mannerism.** The course instructor shall conduct himself or herself in a professional manner when performing instructional duties, and shall not engage in any form of harassment based on the gender, national origin, race, religion, age or physical or mental disability of any student, and shall not engage in conduct that degrades or disparages any student or other instructor. ( )

**06. Subject Matter Knowledge.** The instructor shall conduct the class in a manner that demonstrates knowledge of the subject matter being taught; ( )

**07. Competent Teaching Skills.** The instructor shall conduct the class in a manner that demonstrates competency in the following basic teaching skills: ( )

**a.** The ability to effectively communicate through speech; ( )

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### **REAL ESTATE COMMISSION** **Rules of the Idaho Real Estate Commission**

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**PENDING RULE**

**b.** The ability to present instruction in an accurate, logical, orderly and understandable manner and to respond appropriately to questions from students; ( )

**c.** The ability to utilize varied instructional techniques in addition to lecture, such as class discussion, role playing or other techniques in a manner that enhances learning; ( )

**d.** The ability to utilize instructional aids and modern technology in a manner that enhances learning; ( )

**e.** The ability to maintain an appropriate learning environment and effective control of a class; ( )

**f.** The ability to interact with adult students in a manner that encourages students to learn, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, including fellow peer instructors, any agency or any organization. ( )

**08. Prohibited Conduct.** The course instructor shall not display any images or use language, including jokes and stories, that are vulgar, that contain racial, sexual, or religious slurs, or that otherwise is intended to disparage or degrade any student or peer instructor. Excessive reference to personal history, or the sharing of information of an intimate or highly personal nature concerning the instructor or any other person, is not permitted. ( )

**09. Maintaining Exam Security.** The instructor shall take reasonable steps to protect the security of course examinations and shall not allow students to retain copies of final course examinations or the exam answer key. ( )

**10. Use of Exam Questions Prohibited.** The instructor shall not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. ( )

**11. Instructor Evaluations.** The instructor must maintain, for the course, an annual average of four point zero (4.0) (based on one to five (1-5) scale) on the standard Commission evaluations for the instructor's overall average category. ( )

**501. -- 999. (RESERVED).**

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

## **IDAPA 33 - REAL ESTATE COMMISSION**

### **33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**

**DOCKET NO. 33-0101-0703**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2007 and 54-2013, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 3, 2007 Idaho Administrative Bulletin, Vol. 07-10, pages 242 and 243.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact on the state general fund, since all licensing fee revenues are credited to the Special Real Estate Account.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jeanne Jackson-Heim, (208) 334-3285 ext 118, or Kimberly Coster, (208) 334-3285 ext 115.

Dated this 13th day of November, 2007.

Jeanne Jackson-Heim  
Executive Director  
Idaho Real Estate Commission  
633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
(208) 334-3285; (208) 334-2050 (fax)

# **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**REAL ESTATE COMMISSION**  
**Rules of the Idaho Real Estate Commission**

**Docket No. 33-0101-0703**  
**PENDING RULE**

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## **THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007, Section 54-2013, Idaho Code.

**PUBLIC HEARING:** A public hearing concerning this rulemaking will be held as follows:

**Wednesday, October 24, 2007 -- 10:00 a.m.**  
**The Idaho Real Estate Commission**  
**633 North Fourth Street**  
**Boise, Idaho 83702**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing to the agency address below.

**DESCRIPTIVE SUMMARY: DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

**Amend Rule 121.01 to provide that the Notice, advising a licensee of his non-compliance with the errors and omissions insurance requirement, be sent first class mail and eliminate the requirement that it be sent "certified" mail.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

No fees or charges are being imposed or increased through this rulemaking.

**FISCAL IMPACT** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

No negative fiscal impact to the general fund will result from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Jeanne Jackson-Heim, (208) 334-3285.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2007.

DATED this 20th day of September, 2007.

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **121. FAILURE TO MAINTAIN INSURANCE.**

## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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### REAL ESTATE COMMISSION Rules of the Idaho Real Estate Commission

Docket No. 33-0101-0703  
PENDING RULE

Failure of a licensee to obtain and maintain insurance coverage required by Subsection 117.02 shall result in inactivation of any active license issued pursuant to Idaho Real Estate License Law or denial of any application for issuance or renewal of an active license. Failure to maintain insurance as required herein shall be deemed insufficient application for licensure under Section 67-5254, Idaho Code. (4-2-03)

**01. Notice of Noncompliance.** Within five (5) working days of the date the Commission is notified that a licensee does not have required coverage, the Commission shall notify the affected licensee of noncompliance. Notice shall be sent by ~~certified~~ first class mail to the licensee's business or residence address, as reflected in the Commission's records, and a copy of the notice shall be sent to the licensee's broker, if any. The notice shall provide that the licensee has ten (10) days in which to comply with the law and these rules regarding errors and omissions insurance. Failure to comply at the end of ten (10) days shall result in the license being automatically inactivated. (3-15-02)( )

**02. Reactivation.** Any licensee whose license has been inactivated for failure to comply with these rules shall be entitled to activate said license, relating back to and including the date of inactivation, provided that, within thirty (30) days of the date of inactivation, the licensee or Group Plan Administrator files with the Commission a certificate of coverage showing that such coverage has been and is currently in effect on and from the date of inactivation, with no lapse in coverage. Further, the licensee must submit required documents and fees to activate said license. In the event the certificate of coverage shows an effective date later than the date of inactivation, said license shall be activated as of the effective date of said insurance, as reflected in the certificate of coverage, and upon submission of any required documents and fees. (3-15-02)

**03. Failure to Maintain Insurance.** Failure of a licensee to maintain errors and omissions insurance or failure of a licensee to submit or cause to be submitted a certificate of coverage as required by Section 54-2013, Idaho Code, and in accordance with these rules and while engaging in the business of real estate broker or real estate salesperson, as defined in Sections 54-2002 and 54-2004, Idaho Code, shall constitute a violation of these rules, and shall be grounds for disciplinary action as provided in Sections 54-2059 and 54-2060, Idaho Code, including but not limited to the assessment of civil fines. (3-15-02)

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

#### **59.01.07 - MISCELLANEOUS RULES OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0107-0701**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2008 Idaho State Legislature for final approval. The pending rule will become final and effective on July 1, 2008, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and text of the pending rule with an explanation of the reasons for the change:

This rule will more closely balance the interest credited to member accounts with the actual net earnings of the fund over time as compared with current rules. The current rules were adopted in 1999 to make the PERSI benefit more portable. They provide that all member accounts receive the greater of net returns to the fund, or an average of 90 day treasury rates. This allowed members who took a separation benefit before retirement to benefit from the extraordinary gains of the 1990s. Prior to 1999, members' accounts accrued interest only at money market rates.

After PERSI experienced negative returns in 2001 and 2002 it became apparent that the current interest floor resulted in separating employees receiving a disproportionate share of returns and not sharing the risk of losses to the fund. This new rule governing accrual of interest to member accounts is needed to protect the fund from negative market conditions similar to those in 2001 and 2002 and affects primarily members who do not retire from the system, and their beneficiaries. It does not affect the benefit of a member who retires from the system. This rule moderates the interest that will accrue to members' accounts at both ends of the spectrum by reducing regular interest to 90 percent of actual returns of the fund net of expenses and by lowering the floor to 1% -- the floor essentially being funded by the 10% reduction in regular interest.

The rule also amends the address of PERSI's Coeur d' Alene office.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the June 6, 2007, Idaho Administrative Bulletin, Vol. 07-6, pages 91 through 92.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**PERSI**  
**Miscellaneous Rules of PERSI**

**Docket No. 59-0107-0701**  
**PENDING RULE**

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impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
None on the general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 25th day of October, 2007.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

### ***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE***

**AUTHORITY:** In compliance with Sections 67-5222(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2007.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule will more closely balance the interest credited to member accounts with the actual net earnings of the fund over time as compared with current rules. The current rules were adopted in 1999 to make the PERSI benefit more portable. They provide that all member accounts receive the greater of net returns to the fund, or an average of 90 day treasury rates. This allowed members who took a separation benefit before retirement to benefit from the extraordinary gains of the 1990s. Prior to 1999, members' accounts accrued interest only at money market rates.**

**After PERSI experienced negative returns in 2001 and 2002 it became apparent that the**

## **SENATE COMMERCE & HUMAN RESOURCES COMMITTEE**

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**PERSI**  
**Miscellaneous Rules of PERSI**

**Docket No. 59-0107-0701**  
**PENDING RULE**

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current interest floor resulted in separating employees receiving a disproportionate share of returns and not sharing the risk of losses to the fund. This new rule governing accrual of interest to member accounts is needed to protect the fund from negative market conditions similar to those in 2001 and 2002 and affects primarily members who do not retire from the system, and their beneficiaries. It does not affect the benefit of a member who retires from the system. This rule moderates the interest that will accrue to members' accounts at both ends of the spectrum by reducing regular interest to 90 percent of actual returns of the fund net of expenses and by lowering the floor to 1% -- the floor essentially being funded by the 10% reduction in regular interest.

The rule also amends the address of PERSI's Coeur d' Alene office.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it would be inconsistent with the Retirement Board's exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2007.

DATED this 29th day of March, 2007.

### ***THE FOLLOWING IS TEXT OF THE PENDING RULE***

#### **002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).**

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office  
607 North Eighth Street  
Boise, Idaho 83702  
Phone: 208/334-3365 or 1-800-451-8228  
Fax: 208/334-4026

PERSI Pocatello Office  
850 E. Center, Suite D  
Pocatello, Idaho 83201  
Phone: 208/236-6225 or 1-800-762-8228



## SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

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**PERSI**  
**Miscellaneous Rules of PERSI**

**Docket No. 59-0107-0701**  
**PENDING RULE**

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Fax: 208/236-6159

PERSI Coeur d'Alene Office  
2005 Ironwood Parkway, Suite ~~1422~~226  
Coeur d'Alene, Idaho 83814  
Phone: 208/769-1474 or 1-800-962-8228  
Fax: 208/769-1476

(~~5-6-94~~)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **100. REGULAR INTEREST (RULE 100).**

Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or ~~the average interest rate of 13 week United States Treasury Bills on the last business day of each calendar quarter of the fiscal year ending immediately prior to the calendar year as reported in the "Money Rates" section of the Wall Street Journal~~ one percent (1%). (Amended 3-30-01) (~~3-30-01~~)( )